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MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

SANTA MONICA CIVIC AUDITORIUM
EAST WING
1855 MAIN STREET
SANTA MONICA, CALIFORNIA

TUESDAY, OCTOBER 14, 2014
1:07 P.M.

Reported by:
Tamoi N. Tomlinson
CSR No. 13864

1 A P P E A R A N C E S

2
3 COMMISSION MEMBERS:

4 Mr. John Chiang, State Controller, Chairperson,
5 represented by Mr. Alan Gordon

6 Mr. Gavin Newsom, Lieutenant Governor, also represented by
7 Mr. Kevin Schmidt

8 Mr. Michael Cohen, Director of Finance, represented by
9 Ms. Eraina Ortega

10 STAFF:

11 Ms. Jennifer Lucchesi, Executive Officer

12 Mr. Mark Meier, Chief Counsel

13 Mr. Colin Connor, Assistant Chief, Land Management
14 Division

15 Ms. Kathryn Colson, Staff Attorney CA State Lands

16 Ms. Jennifer DeLeon, Environmental Planning & Management
17 Division

18 ATTORNEY GENERAL:

19 Mr. Joe Rusconi, Deputy Attorney General

20 ALSO PRESENT:

21 Mr. Ronald Krendell

22 Ms. M. Louise Dubos

23 Mr. Edward Hirsch

24 Ms. Carla Watson, Parks & Rec Commissioner

25 Ms. Nancy Kredell

Ms. Kathleen Keane

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A P P E A R A N C E S C O N T I N U E D

- Mr. Jim Basham, Director of Community Development
- Mr. Mel Nutter
- Mr. Richard Barbazette
- Mr. Ray Fortner
- Mr. Eric Lenore
- Mr. Edward Sellett, Project Manager Bay City Partners
- Ms. Teresa Henry, District Manager CA Coastal Commission
- Mr. Michael Bronfenbrenner
- Mr. Doug Carstens, Attorney
- Mr. John Kyles, Attorney, Plains All American Pipeline
- Mr. Adrian Martinez, Staff Attorney, Earth Justice
- Mr. Noel Weiss
- Ms. Connie Rutter
- Mr. John Miller, President, San Pedro & Peninsula
- Ms. June Burlingame
- Ms. Nancy Vitale, Campaign Director, Representing Mr. Goya
- Ms. Kathleen Woodfield, Vice President San Pedro Peninsula
- Ms. Toni Martinovich
- Mr. Chuck Hart, President, San Pedro Homeowner United
Coalition
- Ms. Janet Gunter
- Ms. Dorota Starr
- Ms. Jeanne LaComba, President, Rolling Hills Riviera
- Mr. Alfred

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A P P E A R A N C E S C O N T I N U E D

- Ms. Darlene Zavalney
- Mr. Pat Nave
- Mr. Kit Fox, Senior Admin. Assistant, City of Rancho Palos
Verdes
- Ms. C. Gonyea
- Mr. Peter Burmeister
- Ms. Diana Nave
- Ms. Nicole Ekstrom, Representing Ecosystem Management
Association Inc.
- Ms. Stefanie Sekich, Surf Rider Foundation

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I N D E X

PAGE

I. OPEN SESSION 1

II. CONFIRMATION OF MINUTES FOR THE SPECIAL MEETING OF
SEPTEMBER 2, 2014 2

III. EXECUTIVE OFFICER'S REPORT 2

Continuation of Rent Actions to be taken by the
CSLC Executive Officer pursuant to the Commission's
Delegation of Authority:
Herbert H. Hooper, D.D.S. and Darlene Hooper,
Co-Trustees of the 2007 Hooper Family Revocable
Trust (Lessees): Continuation of rent at \$443 per
year for a General Lease - Recreational Use, located
on sovereign land in Lake Tahoe, adjacent to 6073
North Lake Boulevard, Tahoe Vista, Placer County
(PRC 4056.1)

IV. CONSENT CALENDAR C01-C104
THE FOLLOWING ITEMS ARE CONSIDERED TO BE
NON-CONTROVERSIAL AND ARE SUBJECT TO CHANGE AT ANY
TIME UP TO THE DATE OF THE MEETING.

LAND MANAGEMENT DIVISION

NORTHERN REGION

C01 PHILLIP HIROSHIMA AND JEAN HIROSHIMA, AS
TRUSTEES OF THE PHILLIP HIROSHIMA AND JEAN HIROSHIMA
2003 TRUST (APPLICANT): Consider application for a
General Lease - Recreational Use, of sovereign land
located in the Sacramento River, adjacent to 6508
Benham Way, near the city of Sacramento, Sacramento
County; for an existing uncovered floating boat
dock, gangway and two cables attached to two
"deadman" on the upland. CEQA Consideration:
categorical exemption. (PRC 8564.1; RA# 02814) (A 9;
S 6) (Staff: G. Asimakopoulos)

C02 CHARLES E. STRECKFUSS, AS TRUSTEE OF THE CHARLES
E. STRECKFUSS INTER VIVOS TRUST DATED NOVEMBER 19,
1988, FIRST AMENDED AUGUST 8, 1990,
SECOND AMENDED JUNE 30, 2003, AND RESTATED IN ITS
ENTIRETY ON OCTOBER 20, 2004, AND RESTATED IN ITS.

I N D E X C O N T I N U E D

1
2 C02 (CONTINUED) ENTIRETY ON NOVEMBER 14, 2006; DALE M. WALLIS.

3 D.V.M.; AND LEONARD HODGSON (LESSEES); DENNIS MORTON
4 OIKLE AND HILDEGARDE HEIDI OLIVEROIKLE, DBA HEIDI'S
5 OUTRIGGER MARINA AND SALOON (APPLICANT): Consider
6 termination of Lease No. PRC 3934.1, a General Lease
7 - Commercial Use, and an application for a new
8 General Lease - Commercial Use, of sovereign land
9 located in Three Mile Slough at Sherman Island,
10 adjacent to 17641 Sherman Island East Levee Road,
11 near the city of Rio Vista, Sacramento County; for
12 an existing commercial marina. CEQA Consideration:
13 termination - not a project; lease - categorical
14 exemption. (PRC 3934.1; RA# 07614) (A 11; S 3)
15 (Staff: G. Asimakopoulos)

16
17 C03 ANDREW JACKSON CODY (APPLICANT): Consider
18 application for a General Lease - Recreational and
19 Protective Structure Use, of sovereign land located
20 in the Sacramento River, adjacent to 3101 Garden
21 Highway, near the city of Sacramento, Sacramento
22 County; for an existing uncovered floating boat dock
23 and gangway previously authorized by the Commission;
24 and three wood pilings, a two-pile wooden dolphin,
25 and bank protection not previously authorized by the
Commission. CEQA Consideration: categorical
exemption. (PRC 5155.1; RA# 03014) (A 7; S 6) (Staff:
G. Asimakopoulos)

18 C04 CHRISTOPHER LANZAFAME AND NANCY D. LANZAFAME
19 (APPLICANT): Consider application for a General
20 Lease - Recreational Use, of sovereign land located
21 in Spoonbill Slough, at Van Sickle Island, adjacent
22 to 801 Van Sickle Road, near the city of Pittsburg,
23 Solano County; for three existing uncovered floating
24 boat docks, 12 pilings, and three gangways
25 previously authorized by the Commission; and a
28-foot by 6-foot dock extension not previously
authorized by the Commission. Categorical
exemption. (PRC 4938.1; RA # 31812) (A 10; S2)
(Staff: G. Asimakopoulos)

I N D E X C O N T I N U E D

1
2 C05 FREEPORT VENTURES LLC (LESSEE): Consider
3 revision of rent to Lease No. PRC 3915.1, a General
4 Lease - Commercial Use, of sovereign land located in
5 the Sacramento River, in Freeport.

6
7 C05(CONTINUED) Sacramento County; for a commercial
8 marina. Not a project. (PRC 3915.1) (A 9; S 3, 6)
9 (Staff: V. Caldwell)

10
11 C06 151 BRANNAN ISLAND ROAD, LLC DBA LIGHTHOUSE
12 RESTAURANT RESORT AND MARINA (LESSEE): Consider
13 revision of rent to Lease No. PRC 5210.1, a General
14 Lease - Commercial Use, of sovereign land located in
15 the Mokelumne River, near the city of Isleton,
16 Sacramento County; for a commercial marina known as
17 Lighthouse Restaurant Resort and Marina. CEQA
18 Consideration: not a project.(PRC 5210.1) (A 9; S 6)
19 (Staff: V. Caldwell)

20
21 C07 RICHARD P. AMARO AND EVELYN J. AMARO,
22 CO-TRUSTEES, OR ANY SUCCESSOR TRUSTEE, OF THE
23 RICHARD P. AMARO AND EVELYN J. AMARO REVOCABLE
24 LIVING TRUST DATED JUNE 17, 1993 (APPLICANT):
25 Consider application for a General Lease -
Recreational Use, of sovereign land located in
Spoonbill Slough, at Van Sickle Island, adjacent to
Assessor's Parcel Number 0090- 060-430, Solano
County; for an existing uncovered floating boat
dock, three wood pilings, and gangway not previously
authorized by the Commission. CEQA Consideration:
categorical exemption. (W 26785; RA# 01914) (A 10; S
2)(Staff: V. Caldwell)

19 C08 CAPTAIN'S TABLE HOTEL, LTD (LESSEE): URBAN
20 COMMONS RIVERSIDE BLVD., LLC (APPLICANT/SUBLESSOR);
21 BRIGHTON MANAGEMENT LLC(SUBLEESSEE): Consider
22 termination of Lease No. PRC 8540.1, a General Lease
23 - Commercial Use, and an application for a General
24 Lease - Commercial and Protective Structure Use, and
25 approval of a sublease of sovereign land located in
the Sacramento River, adjacent to 4800 Riverside
Boulevard, near the city of Sacramento, Sacramento
County; for an existing commercial marina. CEQA
Consideration: termination of lease and approval of
sublease - not projects; lease - categorical
exemption. (PRC 8540.1; RA# 29412) (A 9; S 6)

I N D E X C O N T I N U E D

1
2 C09 DAVID MANNING CHODOS AND MARK CHODOS
3 (APPLICANT): Consider application for a General
4 Lease - Recreational and Protective Structure Use,
5 of sovereign land located in the Sacramento River,
6 adjacent to 2181 Garden Highway, near the city of
7 Sacramento, Sacramento County; for an existing
8 uncovered floating boat dock, steel dolphin, two
9 steel pilings, gangway, and bank protection not
10 previously authorized by the Commission. CEQA
11 Consideration: categorical exemption. (W 26793; RA#
12 08014) (A 7; S 6) (Staff: V. Caldwell)

13 C10 PETER F. SNOOK AND JUDITH L. SNOOK, AS TRUSTEES
14 OF THE SNOOK FAMILY REVOCABLE TRUST, DATED APRIL 11,
15 2000 (APPLICANT): Consider recission of prior
16 authorization and application for a General Lease -
17 Recreational Use, of sovereign land located in Lake
18 Tahoe, adjacent to 4688 North Lake Boulevard, near
19 Carnelian Bay, Placer County; for an existing pier,
20 boathouse, and two mooring buoys previously
21 authorized by the Commission; and an existing boat
22 lift and a sundeck with stairs not previously
23 authorized by the Commission.
24 Recission - not a project; lease - categorical
25 exemption.
(PRC 1617.1; RA# 24810) (A 1; S 1) (Staff: M.J.
Columbus)

16 C11 COUNTY OF LASSEN (APPLICANT): Consider
17 application for a General Lease - Public Agency Use
18 of sovereign land located in Eagle Lake, adjacent to
19 Assessor's Parcel Number 077-080-35, near the city
20 of Susanville, Lassen County; for an existing
21 breakwater. CEQA Consideration: categorical
22 exemption. (PRC 3297.9; RA# 27913) (A 1; S 1)
23 (Staff: M.J. Columbus)

21 C12 RICHARD WALLACE MYERS (LESSEE); KAREN A. BESHAK,
22 AS TRUSTEE OF THE KAREN A. BESHAK FAMILY TRUST,
23 DATED APRIL 1, 2011 (APPLICANT): Consider
24 termination of Lease No. PRC 8715.9, a Recreational
25 Pier Lease; and an application for a General Lease -
Recreational and Protective Structure Use, of.
Sovereign land located in the.
Sacramento River, adjacent to 3061 Garden Highway,
near the city of Sacramento, Sacramento County; for.

I N D E X C O N T I N U E D

1
2 C12 (CONTINUE) an existing uncovered single- berth
3 floating boat dock, gangway, and three pilings
4 previously authorized by the Commission, and an
5 existing boat lift, utility conduits, and bank
6 protection not previously authorized by the
7 Commission. CEQA Consideration: termination - not a
8 project; lease - categorical exemption. (PRC 8715.1;
9 RA# 24813) (A 7; S 6)(Staff: M.J. Columbus)

10 C13 TAHOE MARINA OWNERS' ASSOCIATION (APPLICANT):
11 Consider application for a General Lease -
12 Recreational Use, of sovereign land located in Lake
13 Tahoe, adjacent to 270 North Lake Boulevard, near
14 Tahoe City, Placer County; for an existing pier, 10
15 mooring buoys, and one marker buoy previously
16 authorized by the Commission; and an existing
17 storage building and one marker buoy not previously
18 authorized by the Commission. CEQA Consideration:
19 categorical exemption.
20 (PRC 8559.1; RA# 10213) (A 1; S 1) (Staff: M.J.
21 Columbus)

22 C14 TRUCKEE-DONNER RECREATION AND PARK DISTRICT
23 (LESSEE): Consider application for an amendment to
24 Permit No. PRC 4916.9, a General Permit - Public
25 Agency Use, of sovereign land located in Donner
Lake, adjacent to Donner Pass Road, near the town of
Truckee, Nevada County; to include the proposed
construction of a floating boat dock. CEQA
Consideration: categorical exemption.
(PRC 4916.9; RA# 07814) (A 1; S 1) (Staff: M. J.
Columbus)

19 C15 GEORGE STANLEY LANGSTON AND BETTY LEA LANGSTON
20 AS TRUSTEES OF THE LANGSTON FAMILY TRUST OF 1990,
21 U.D.T. DATED SEPTEMBER 28, 1990 (LESSEES): Consider
22 amendment to Lease No. PRC 5558.1, a General Lease -
23 Recreational Use, of sovereign land located in Lake
24 Tahoe, adjacent to 8503 Meeks Bay Avenue, near
25 Tahoma, El Dorado County; for an existing pier,
three mooring buoys on two contiguous littoral
Parcels, and boat hoist. Not a project. (PRC
5558.1; RA# 34012) (A 5; S 1)(Staff: M.J. Columbus)

24
25 C16 CARRION L.P., A CALIFORNIA LIMITED PARTNERSHIP.

I N D E X C O N T I N U E D

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2 C16 (CONTINUE) (APPLICANT): Consider application for
3 a General Lease - Recreational Use, of sovereign
4 land located in Lake Tahoe, adjacent to 184 Rim
5 Drive, near Tahoe Vista, Placer County; for two
existing mooring buoys. CEQA Consideration:
categorical exemption. (PRC 8509.1; RA# 14613) (A 1;
S 1) (Staff: M.J. Columbus)

6 C17 MARGIE LOCKWOOD, TRUSTEE OF THE MARGIE LOCKWOOD
7 LIVING TRUST DATED OCTOBER 26, 2005 (APPLICANT):
8 Consider application for a General Lease -
9 Recreational Use, of sovereign land located in Lake
10 Tahoe, adjacent to 200 Rim Drive, near Tahoe Vista,
Placer County; for two existing mooring buoys not
previously authorized by the Commission. CEQA
Consideration: categorical exemption. (W 26740; RA#
14713) (A 1; S 1) (Staff: M.J. Columbus)

11 C18 CHERRYVALE HOLDINGS, LLC, A LOUISIANA LIMITED
12 LIABILITY COMPANY
13 (APPLICANT): Consider application for a General
14 Lease - Recreational Use, of sovereign land located
15 in Lake Tahoe, adjacent to 6229 North Lake
Boulevard, near Tahoe Vista, Placer County; for two
existing mooring buoys not previously authorized by
the Commission. CEQA Consideration: categorical
exemption. (W 26741; RA# 14513) (A 1; S 1) (Staff:
M.J. Columbus)

16
17 C19 SONOMA-MARIN AREA RAIL TRANSIT (APPLICANT):
18 Consider application for a General Lease - Public
19 Agency Use, of sovereign land located in San Antonio
20 Creek, adjacent to Assessor's Parcel Number
125-160-14, near the city of Novato, Marin County,
for the Mira Monte Marina Wetlands Restoration
Project. CEQA Consideration: Mitigated Negative
Declaration, adopted by Sonoma-Marin Area Rail
Transit, State Clearinghouse No. 2014052039, and
adoption of a Mitigation and Monitoring Program.
22 (W 26774; RA# 26613) (A 10; S 2) (Staff: M.J.
Columbus)

23
24 C20 GLENN-COLUSA IRRIGATION DISTRICT (APPLICANT):
25

I N D E X C O N T I N U E D

1
2 C20 (CONTINUE) consider an application for a General
3 Lease - Public Agency Use, of sovereign land located
4 in the Sacramento River, adjacent to 1601 Bechelli
5 Lane, city of Redding, Shasta County; for the
6 redistribution of gravel material to restore and
7 maintain a channel for restoration of spawning
8 habitats for native and protected fish. CEQA
9 Consideration: Mitigated Negative Declaration,
10 adopted by the Glenn-Colusa Irrigation District,
11 State Clearinghouse No. 2014082028, and adoption of
12 a Mitigation and Monitoring Program. (W 26789; RA#
13 04514) (A 1; S 1) (Staff: W. Hall)

14
15 C21 WEST SACRAMENTO AREA FLOOD CONTROL AGENCY
16 (APPLICANT): Consider an application for General
17 Lease - Public Agency Use, of sovereign land located
18 in the Sacramento River, adjacent to 1120 Riverbank
19 Road, city of West Sacramento, Yolo County; for
20 erosion repair, bank protection and fish habitat
21 restoration. CEQA Consideration: Mitigated Negative
22 Declaration, adopted by the West Sacramento Area
23 Flood Control Agency, State Clearinghouse No.
24 2014032085, and adoption of a Mitigation and
25 Monitoring Program. (W 26782; RA# 01314) (A 7; S 6)
(Staff: W. Hall)

15 C22 JOHN STUMPF AND RUTH STUMPF, TRUSTEES OF THE
16 STUMPF FAMILY TRUST (LESSEE): Consider application
17 for amendment of Lease No. PRC 4066.1, a General
18 Lease - Recreational Use, of sovereign land located
19 in Lake Tahoe, adjacent to 1870 North Lake
20 Boulevard, near Tahoe City, Placer County; to
21 authorize the replacement and extension of an
22 existing pier with mechanized catwalk and relocation
23 of the boat lift. CEQA Consideration: categorical
24 exemption. (PRC 4066.1; RA #02713) (A 1; S 1) (Staff:
25 W. Hall)

21 C23 RALEY'S, A CALIFORNIA CORPORATION (GRANTOR):
22 Consider acceptance of Quitclaim Deed for sovereign
23 Land located in the Sacramento River, Assessor's
24 Parcel Number 010-473-031-000, city of West
25 Sacramento, Yolo County. Not a project.
(SD2014-08-13.2) (A 8; S 4) (Staff: W. Hall)

I N D E X C O N T I N U E D

1
2 C24 SONOMA LAND TRUST (APPLICANT): Consider
3 application for a General Lease - Other, of
4 sovereign land located in San Pablo Bay and Tolay
5 Creek, adjacent to 2100 Highway 37, city of
6 Petaluma, Sonoma County; for wetland restoration and
7 dredging. CEQA Consideration: Environmental Impact
8 Report/Statement, certified by the California
9 Department of Fish and Wildlife and the U.S. Fish
10 and Wildlife Service, State Clearinghouse No.
11 2007102037, and adoption of a Mitigation and
12 Monitoring Program and Statement of Findings. (W
13 26786; RA# 01614) (A 10; S 3)(Staff: W. Hall)

9 C25 CITY OF SACRAMENTO (LESSEE): Consider correction
10 of prior authorization of Lease No. PRC 7775.9, a
11 General Lease - Dredging Use, of sovereign land in
12 the Sacramento River, at the entrance to the
13 Sacramento Marina in Miller Park and at the Miller
14 Park Boat Ramp, in the city of Sacramento,
15 Sacramento County; disposal of dredged material
16 initially at one of two city-owned upland parcels
17 near the dredged site, with final disposal at an
18 approved U.S. Army Corps of Engineers' disposal
19 site. Categorical exemption. (PRC 7775.9; RA#
20 33312)(A 9; S 5, 9) (Staff: D. Jones)

16 C26 KERWIN K. KNIGHT AND JOYCE A. KNIGHT, TRUSTEES
17 OF THE KNIGHT FAMILY TRUST, DATED MARCH 23, 1998
18 (APPLICANT): Consider application for a General
19 Lease - Recreational Use, of sovereign land located
20 in the Sacramento River, adjacent to 3947 Garden
21 Highway, Sacramento County; for an existing floating
22 boat dock, two pilings, and gangway. CEQA
23 Consideration: categorical exemption. (PRC 8565.1;
24 RA# 26113) (A 7; S 6) (Staff: S. Kreutzburg)

21 C27 NIELS T. LARSEN AND SUSAN E. LARSEN (APPLICANT):
22 Consider application for a General Lease -
23 Recreational Use, of sovereign land located in Lake
24 Tahoe, adjacent to 5046 West Lake Boulevard, near
25 Homewood, Placer County; for two existing mooring
buoys. CEQA Consideration: categorical
exemptio-n.(PRC 8575.1; RA# 17813) (A 1; S 1)
(Staff: S. Kreutzburg)

I N D E X C O N T I N U E D

1
2 C28 BERNARD JOHN ATKINSON, TRUSTEE OF THE BERNARD
3 JOHN ATKINSON QUALIFIED PERSONAL RESIDENCE TRUST I,
4 DATED AUGUST 31, 2009; BERNARD JOHN ATKINSON,
5 TRUSTEE OF THE BERNARD JOHN ATKINSON QUALIFIED
6 PERSONAL RESIDENCE TRUST II, DATED AUGUST 31, 2009;
7 AND CAROL SUE ATKINSON, TRUSTEE OF THE CAROL SUE
8 ATKINSON QUALIFIED PERSONAL RESIDENCE TRUST I, DATED
9 SEPTEMBER 10, 2009; CAROL SUE ATKINSON, TRUSTEE OF
10 THE CAROL SUE ATKINSON QUALIFIED PERSONAL RESIDENCE
11 TRUST II, DATED SEPTEMBER 4, 2009. (APPLICANT):
12 Consider application for a General Lease -
13 Recreational Use, of sovereign land located in Lake
14 Tahoe, adjacent to 4870 North Lake Boulevard, near
15 Carnelian Bay, Placer County; for an existing pier
16 and boathouse previously authorized by the
17 Commission, and three existing boat lifts not
18 previously authorized by the Commission. CEQA
19 Consideration: categorical exemption. (PRC 4142.1;
20 RA# 28813) (A 1; S 1) (Staff: S. Kreutzburg)

21
22 C29 BARBARA EWING WALKER, TRUSTEE OF THE EWING
23 WALKER REVOCABLE TRUST, (APPLICANT): Consider
24 application for a General Lease - Recreational and
25 Protective Structure Use, of sovereign land located
in the Sacramento River, adjacent to 10215 Garden
Highway, near Verona, Sutter County; for an existing
uncovered floating boat dock, ramp, one 2-pile
dolphin, one piling, and bank protection. CEQA
Consideration: categorical exemption. (PRC 7786.1;
RA# 27613)(A 3; S 4) (Staff: S. Kreutzburg)

C30 WEST SHORE INVESTORS, L.P., A CALIFORNIA LIMITED
PARTNERSHIP(APPLICANT): Consider application for a
General Lease - Recreational use
Of sovereign land located in Lake Tahoe, adjacent to
4860 West Lake Boulevard, near Homewood, Placer
County; for two existing mooring buoys. CEQA
Consideration: categorical exemption. (PRC 8592.1;
RA# 25413) (A 1; S 1) (Staff: S. Kreutzburg)

C31 SHERRY T. DUMKE AS TRUSTEE OF DUMKE LAKE TAHOE
TRUST A; MICHAEL A. DUMKE AND AMY S. DUMKE AS
TRUSTEES OF THE DUMKE 2002 TRUST UID OCTOBER 1,
2002; JEFFREY R. WENDT AND MOLLY DUMKE WENDT AS.

I N D E X C O N T I N U E D

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2 C31(CONTINUE) TRUSTEES OF THE WENDT 2001 TRUST UID
3 JUNE 23, 2001; AND DAVID P. CLARKE AND CRISTY CLARKE
4 AS TRUSTEES OF THE 1995 DCC FAMILY TRUST UID APRIL
5 26, 1995 (APPLICANT): Consider application for a
6 General Lease - Recreational Use, of sovereign land
7 located in Lake Tahoe, adjacent to 1302 West Lake
Boulevard, Tahoe City, Placer County; for two
existing mooring buoys not previously authorized by
the Commission. CEQA Consideration: categorical
exemption. (W 24638; RA# 03514) (A 1; S 1) (Staff:
S. Kreutzburg)

8 C32 FOUR J'S INVESTMENTS, LLC, AN IDAHO LIMITED
9 LIABILITY CORPORATION
10 (APPLICANT): Consider application for a General
11 Lease - Recreational Use, of sovereign land located
12 in Lake Tahoe, adjacent to 4598 North Lake
Boulevard, near Carnelian Bay, Placer County; for
two existing mooring buoys. CEQA Consideration:
Categorical exemption. (PRC 8577.1; RA# 19013) (A 1;
S 1) (Staff: S. Kreutzburg)

13
14 C33 JULIE LANE GAY (LESSEE): Consider revision of
15 rent to Lease No. PRC 8316.1, a General Lease -
16 Recreational Use, of sovereign land located in Lake
17 Tahoe, adjacent to 181 and 185 Paradise Flat Lane,
near Tahoma, El Dorado County; for an existing pier,
boat lift, two mooring buoys, and one swim float.
CEQA consideration: Not a project. (PRC 8316.1) (A
5; S 1) (Staff: S. Kreutzburg)

18
19 C34 JOSEPH F. DAVI, SR. AND LAURA L. WRIGHT, AS
20 TRUSTEES OF THE DAVI WRIGHT REVOCABLE TRUST DATED
21 NOVEMBER 30, 2009 (ASSIGNOR); JOSHUA EVANS AND
22 NICOLE EVANS (ASSIGNEE): Consider application for
23 the assignment of Lease No. PRC 8414.1, a General
Lease - Recreational Use, of sovereign land located
in Three-Mile Slough, adjacent to 18164 Sherman
Island East Levee Road, near Rio Vista, Sacramento
County; for an uncovered floating boat dock.

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I N D E X C O N T I N U E D

1
2 C34(CONTINUE)landing, ramp, walkway, four pilings,
3 and a two-pile dolphin. Not a project. (PRC 8414.1;
4 RA# 04314) (A 11; S 3)(Staff: N. Lavoie)

5 C35 TAHOE YACHT HARBOR, LLC (APPLICANT): Consider an
6 application for amendment to Lease No. PRC 706.1, a
7 General Lease - Commercial Use, of sovereign land
8 located in Lake Tahoe, adjacent to 700 North Lake
9 Boulevard, Tahoe City, Placer County; to include
10 maintenance dredging. CEQA Consideration:
11 Categorical exemption. (PRC 706.1; RA# 05214) (A 1;
12 S 1) (Staff: N. Lee)

13 C36 ASPEN PINES, LLC, A NEVADA LIMITED LIABILITY
14 COMPANY (LESSEE): Consider revision of rent to
15 Lease No. PRC 3935.1, a General Lease - Commercial
16 Use, of sovereign land located in Steamboat Slough,
17 adjacent to 13415 Grand Island Road, near the town
18 of Walnut Grove, Sacramento County; for the use and
19 maintenance of an existing uncovered accommodation
20 dock with an attached covered single-berth dock with
21 landing, nine pilings, and gangway. Not a project.
22 (PRC 3935.1) (A 11; S 5) (Staff: D. Oetzel)

23 C37 CPN PIPELINE COMPANY (LESSEE): Consider revision
24 of rent to Lease No. PRC 8046.1, a General Lease -
25 Right-of-Way Use, of sovereign land located in the
Sacramento River, near the town of Robbins, Sutter
and Yolo counties; for an existing 12-inch diameter
steel pipeline containing an eight-inch diameter
natural gas product pipeline. CEQA Consideration:
not a project. (PRC 8046.1) (A 3, 4; S 3, 4)(Staff:
D. Oetzel)

26 C38 RICHARD E. DWYER, TRUSTEE OF THE RICHARD E.
27 DWYER TRUST AGREEMENT DATED AUGUST 30, 1991
28 (APPLICANT): Consider application for a General
29 Lease - Recreational Use, of sovereign land located
30 in Lake Tahoe, adjacent to 3185 West Lake Boulevard,
31 near Homewood, Placer County; for two existing
32 mooring buoys not previously authorized by the
33 Commission. Categorical exemption. (W 26194; RA#
34 12306) (A 1; S 1)(Staff: J. Sampson)

35

I N D E X C O N T I N U E D

C39 MAURICE ANDAYA AND MARGARET ANN ANDAYA, TRUSTEES OF THE MAURICE ANDAYA AND MARGARET ANDAYA REVOCABLE LIVING TRUST DATED AUGUST 28, 2003 (APPLICANT):

Consider application for a General Lease - Recreational Use, of sovereign land located in the Napa River, adjacent to 1768 Milton Road, near the city of Napa, Napa County; for an existing floating boat dock, gangway, walkway, and five pilings. CEQA Consideration: categorical exemption.

(PRC 8149.9; RA# 24910) (A 4; S 3) (Staff: J. Sampson)

C40 SOUTHERN SONOMA COUNTY RESOURCE CONSERVATION DISTRICT(APPLICANT): Consider application for a General Lease - Dredging to remove material from sovereign land located in the Petaluma River, San Pablo Bay, Sonoma Creek, Tolay Creek, North and East Branches of Tolay Creek, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Steamboat Slough, Schell Slough, Railroad Slough, Rainbow Slough, and San Antonio Creek, Sonoma and Napa Counties; disposal of dredged material at adjacent levee crown, or at an approved U.S. Army Corps of Engineers disposal site. CEQA Consideration:

Categorical exemption. (PRC 6675.9; RA# 15409) (A 2, 4, 10; S 2, 3)(Staff: J. Sampson)

C41 UNITED STATES GEOLOGICAL SURVEY (APPLICANT):

Consider termination of Lease No. PRC 6980.9, a General Lease - Public Agency Use, and an application for a General Lease - Public Agency Use of sovereign land, located in the Old River, Middle River, San Joaquin River, Holland Cut, False River, South Fork Mokelumne River, North Fork Mokelumne, Little Potato Slough, Threemile Slough, Sacramento River, Sutter Slough, Steamboat Slough, Georgiana Slough, Miner Slough, Cache Slough, in Contra Costa, San Joaquin, Sacramento, Yolo, and Solano Counties; forExisting water monitoring stations previously authorized by the Commission; and existing water monitoring stations not previously authorized by the Commission. CEQA Consideration:

Termination - not a project; lease - categorical exemption. PRC 7650.9; RA# 20613) (A 14, 12, 7, 4, 11; S 7, 5, 6, 3) (Staff: J. Sampson)

I N D E X C O N T I N U E D

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2 C42 TAHOE HOUSE, LLC (LESSEE); BANKSIA INVESTORS,
3 LLC (APPLICANT): Consider acceptance of a quitclaim
4 deed for Lease No. PRC 8682.1, a General Lease -
5 Recreational Use, and application for a General
6 Lease - Recreational Use, of sovereign land located
7 in Lake Tahoe, adjacent to 8353 Meeks Bay Avenue,
8 near Meeks Bay, El Dorado County; for an existing
9 pier, boat hoist, and mooring buoy. CEQA
10 Consideration; quitclaim - not a project; lease -
11 categorical exemption.(PRC 8682.1; RA# 8913) (A 5; S
12 1) (Staff: J. Sampson)

13
14 C43 DAVID MICHAEL BOWMAN, AS TRUSTEE, OR HIS
15 SUCCESSOR, OF THE DAVID MICHAEL BOWMAN TRUST
16 AGREEMENT DATED APRIL 13, 1989 (LESSEE): Consider
17 application for an amendment to Lease No. PRC
18 1828.1, a General Lease - Recreational Use, of
19 sovereign land located in Lake Tahoe, adjacent to
20 8401 Meeks Bay Avenue, near Meeks Bay, El Dorado
21 County; for an existing pier, boat hoist, and two
22 mooring buoys. CEQA Consideration: not a project.
23 (PRC 1828.1; RA # 25713) (A 5; S 1) (Staff: M.
24 Schroeder)

25
26 C44 BERTHA GAEHWILER AND HEIDI ANNE GAEHWILER
27 BARBERINI, AS TRUSTEES OF THE JOHN R. GAEHWILER AND
28 BERTHA GAEHWILER 1997 TRUST - SURVIVOR'S
29 TRUST(APPLICANT): Consider application for a General
30 Lease - Recreational Use, of sovereign land located
31 in Lake Tahoe, adjacent to 3700 North Lake
32 Boulevard, Carnelian Bay, Placer County; for an
33 existing pier and two mooring buoys. CEQA
34 Consideration: categorical exemption. (PRC 4312.1;
35 RA# 00414) (A 1; S 1) (Staff: M. Schroeder)

36
37 C45 WINIFRED C. SMITH, TRUSTEE OF THE WINIFRED C.
38 SMITH QUALIFIED PERSONAL RESIDENCY TRUST AND EDWARD
39 R. SMITH, AS TRUSTEE OF THE EDWARD R. SMITH
40 REVOCABLE TRUST U/T/D OCTOBER 31, 2006(APPLICANT):
41 Consider application for a General Lease -
42 Recreational Use, of sovereign land located in Lake
43 Tahoe, adjacent to 4136 Ferguson Avenue, near
44 Carnelian Bay, Placer County; for two existing
45 mooring buoys. CEQA Consideration: categorical
46 exemption. (PRC 8335.1; RA# 24213) (A 1; S 1)
47 (Staff: M. Schroeder)

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I N D E X C O N T I N U E D

C46 RAVENHILL PROPERTIES, LP (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3107 Jameson Beach Road, city of South Lake Tahoe, El Dorado County; for an existing pier and two mooring buoys. CEQA Consideration: categorical exemption.(PRC 5134.1; RA# 20913) (A 5; S 1) (Staff: M. Schroeder)

C47 TAHOE KEYS PROPERTY OWNERS ASSOCIATION (APPLICANT): Consider application for a General Lease - Dredging and Other, of sovereign land located in Lake Tahoe, at the West Channel entrance of Tahoe Keys, city of South Lake Tahoe, El Dorado County; for maintenance dredging and placement of up to 5,600 cubic yards of suitable dredge material to the Tahoe Keys beach east of the West Channel entrance. CEQA Consideration: Categorical exemption. (PRC 5331.9; RA# 04214) (5; S 1) (Staff: M. Schroeder)

C48 WOODLAND PIER, INC., A CALIFORNIA CORPORATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to Assessor's Parcel Number 016-051-37, Meeks Bay, El Dorado County; for an existing pier previously authorized by the Commission; and an existing boat lift not previously authorized by the Commission. CEQA categorical exemption. (PRC 1742.1; RA# 24313) (A 5; S 1)(Staff: M. Schroeder)

C49 THOMAS P. NUNES AND THOMAS P. NUNES JR., AS TRUSTEES OF THE ATN FAMILY 1999 TRUST PURSUANT TO DECLARATION OF TRUST DATED JANUARY 1, 1999; AND ANN L. KAYE (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3680 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier and two mooring buoys. CEQA Consideration: categorical exemption. (PRC 4251.1; RA# 01414) (A 1; S 1) (Staff: M. Schroeder)

C50 CHARLES H. DANA, JR. AND KATHERINE G. DANA OSTERLOH (APPLICANT): Consider application for a

I N D E X C O N T I N U E D

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2 C50 (CONTINUE) land. located in Tomales Bay,
3 Inverness, Marin County; for an existing pier. CEQA
4 Consideration categorical exemption. (PRC 8483.1;
5 RA# 21213) (A 10; S 2)(Staff: D. Simpkin)

6 C51 CHRISTOPHER B. MCCLUNEY, TRUSTEE OF THE
7 CHRISTOPHER B. MCCLUNEY TRUST 1991 U/T/A DATED
8 OCTOBER 17, 1991 (APPLICANT): Consider application
9 for a General Lease - Recreational Use, of sovereign
10 land located in Corte Madera Creek, Larkspur, Marin
11 County; for an existing boat dock, ramp and two
12 pilings. CEQA Consideration: categorical exemption.
13 (PRC 7803.1; RA# 04014) (A 10; S 2) (Staff: D.
14 Simpkin)

15 C52 ANTONY C. EVANS AND CAROL ROSS EVANS, TRUSTEES
16 OF THE TONY AND CAROL EVANS 2000 REVOCABLE TRUST
17 ESTABLISHED APRIL 20, 2000 (LESSEE): Consider
18 Application for an amendment to Lease No. PRC
19 8368.1, a General Lease - Recreational Use, of
20 sovereign land located in Lake Tahoe, adjacent to
21 8547 Meeks Bay Avenue, near Rubicon Bay, El Dorado
22 County, for an existing pier, and two mooring buoys.
23 CEQA consideration: not a project. (PRC 8368.1; RA#
24 01214) (A 5; S 1) (Staff: B. Terry)

25 C53 LAKE FOREST PIER OWNER'S ASSOCIATION, INC.
(APPLICANT): Consider application for a General
Lease - Recreational Use, of sovereign land located
in Lake Tahoe, adjacent to a small parcel between
Assessor's Parcel Numbers 092- 142-008 and
092-142-021, Tahoe City, Placer County; for an
existing pier and 13 mooring buoys previously
authorized by the Commission; and an existing boat
hoist not previously authorized by the Commission.
CEQA Consideration: categorical exemption. (PRC
4499.1; RA# 24913) (A 1; S 1) (Staff: B. Terry)

C54 LAKEHOUSE MALL PROPERTY MANAGEMENT, INC.
(LESSEE): Consider correction to lease commencement
date in prior authorization of Lease No. PRC 5354.1,
a General Lease - Commercial Use, of sovereign land
located in Lake Tahoe, adjacent to 120 Grove Street,
Tahoe City, Placer County; for an existing
commercial pier with an Americans with.

I N D E X C O N T I N U E D

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2 C54(CONTINUE)disabilities Act lift, eight mooring
3 buoys, and two seasonal string lines. CEQA
4 Consideration: not a project. (PRC 5354.1)(A 1; S 1)
(Staff: B. Terry)

5 C55 LAKESIDE PARK ASSOCIATION (LESSEE): Consider
6 revision of rent to Lease No. PRC 5883.1, a General
7 Lease - Commercial and Recreational Use, of
8 sovereign land located in Lake Tahoe, adjacent to
4041 Lakeshore Boulevard, city of South Lake Tahoe,
El Dorado County; for a commercial marina and a
beach and swim area. CEQA Consideration: not a
project. (PRC 5883.1) (A 5; S 1) (Staff: B. Terry)

9 C56 ARTHUR L. NARVAEZ, DBA SCHOONER'S LANDING RV
10 PARK, MARINA, AND CAMPGROUND (APPLICANT): Consider
11 application for a General Lease - Commercial Use, Of
12 sovereign land located in the Albion River, adjacent
13 to Assessor's Parcel Numbers 123-060-10 and
14 123-060-14, Albion, Mendocino County; for an
15 existing commercial marina consisting of a boat
launch ramp, three floating docks, one landing,
pilings, and bulkhead previously authorized by the
Commission; and two existing fish cleaning stations
not previously authorized by the Commission CEQA
Consideration categorical exemption. (PRC 5414.1;
RA# 28609) (A 2; S 2)(Staff: B. Terry)

16 C57 SUM M. SETO PROPERTIES, LLC AND JENNY P. SETO
17 PROPERTIES, LLC(APPLICANT): Consider application for
18 a General Lease - Commercial Use, of sovereign land
19 located in the Albion River, adjacent to Assessor's
20 Parcel Number 123-170-01, near Albion, Mendocino
21 County; for an existing commercial marina consisting
22 of a boat launch ramp, two landings, three floating
docks, and pilings previously authorized by the
Commission; and two water intake pipelines not
previously authorized by the Commission. CEQA
Consideration: categorical exemption. (PRC 2164.1;
RA# 07213)(A 2; S 2) (Staff: B. Terry)

23 C58 SEWERAGE COMMISSION-OROVILLE REGION (APPLICANT):
24 Consider application for a General Lease - Public
Agency Use, of sovereign land located in the Feather
25 River, near the city of Oroville, Butte County; for
an existing 12-inch.

I N D E X C O N T I N U E D

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2 C58(CONTINUE)diameter sewer force main pipeline
3 attached to the State Route 162 bridge not
4 previously authorized by the Commission. CEQA
5 Consideration: categorical exemption. (W 26696; RA#
6 33612) (A 3; S 4) (Staff: B. Terry)

7 C59 SEWERAGE COMMISSION-OROVILLE REGION (APPLICANT):
8 Consider application for a General Lease - Public
9 Agency Use, of sovereign land located in the Feather
10 River, adjacent to Assessor's Parcel Number
11 023-350-001, near the city of Oroville, Butte
12 County; for an existing 27-inch inside diameter
13 sewer outfall and diffuser not Previously authorized
14 by the Commission. CEQA Consideration: categorical
15 exemption. (W 26697; RA# 33512) (A 3; S 4) (Staff:
16 B. Terry)

17 C60 CALIFORNIA TAHOE CONSERVANCY (APPLICANT):
18 Consider revision to prior Commission authorization
19 to clarify the lease commencement date and to allow
20 for fencing of a parcel of land located at 3339 Lake
21 Tahoe Boulevard, in South Lake Tahoe, El Dorado
22 County, previously authorized to be acquired through
23 use of Kapiloff Land Bank Funds. CEQA Consideration:
24 categorical exemption.(PRC 9286.9) (A 5; S 1)
25 (Staff: K. Colson, B. Terry)

CENTRAL REGION

26 C61 DAVID E. PHILLIPS AND SHIRLEY D. PHILLIPS
27 (LESSEE); EMILIO BECERRA- LOPEZ AND ADRIANA
28 MARQUEZ-BECERRA (APPLICANT): Consider termination of
29 Lease No. 7461.1, a General Lease - Recreational
30 Use, and an application for a General Lease -
31 Recreational Use, of sovereign land located in the
32 Calaveras River, adjacent to 2975 Calariva Drive,
33 San Joaquin County; for an existing uncovered
34 floating boat dock, boathouse, gangway, and four
35 pilings. CEQA Consideration: termination - not a
36 project; lease - categorical exemption.(PRC 7461.1;
37 RA# 28313) (A 13; S 5) (Staff: S. Kreutzburg)

38 C62 MCIMETRO ACCESS TRANSMISSION SERVICES LLC
39 (LESSEE): Consider revision of rent to Lease No. PRC
40 7950.1, a General Lease - Right-of-Way Use, of.

I N D E X C O N T I N U E D

C62(CONTINUE)sovereign land located in the Calaveras River, near the city of Stockton, San Joaquin County; for a four-inch diameter high-density polyethylene conduit containing three 1¼-inch diameter fiber optic cables. CEQA Consideration: not a project.(PRC 7950.1) (A 13; S 5) (Staff: N. Lavoie)

C63 COMCAST OF CALIFORNIA XII, LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Tuolumne River, adjacent to Assessor's Parcel Numbers 017-021-001, 037-037-001, 017-026-023, and 056-026-032, city of Modesto, Stanislaus County; for an existing fiber-optic communication cable not previously authorized by the Commission. CEQA Consideration: Categorical exemption. (W 26736; RA# 09913)(A 26; S 5, 12, 14) (Staff: B. Terry)

SOUTHERN REGION

C64 JOHN ANTHONY TESORIERO AND KIMBERLY JOAN TESORIERO, TRUSTEES OF THE JOHN AND KIMBERLY TESORIERO FAMILY TRUST (LESSEE): Consider application for an amendment to Lease No. PRC 8996.9, a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1134 Beach Drive, city of Needles, San Bernardino County; to authorize additional existing improvements; construction of an aluminum stairway, walkway, gangway with railing and floating boat dock; and revise the rent accordingly. CEQA Consideration: categorical exemption. (PRC 8996.1)(A 33; S 18) (Staff: R. Collins)

C65 MICHAEL SHUTT AND CHRISTINE D. SHUTT, AS TRUSTEES, OR ANY SUCCESSOR TRUSTEE, UNDER THAT CERTAIN DECLARATION OF TRUST NAMED MICHAEL SHUTT AND CHRISTINE D. SHUTT FAMILY TRUST, CREATED BY MICHAEL SHUTT AND CHRISTINE D. SHUTT, AS TRUSTORS, DATED SEPTEMBER 8, 2006 (LESSEE): Consider application for an amendment to Lease No. PRC 9039.1, a General Lease - Recreational and Protective Structure Use, of sovereign land.

I N D E X C O N T I N U E D

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2 C65 (CONTINUE) located. In the Colorado River,
3 adjacent to 1170 Beach Drive, city of Needles, San
4 Bernardino County; to authorize additional existing
5 improvements; construction of a landing, aluminum
6 gangway with railing, and floating boat dock; and
7 revise the annual rent accordingly. CEQA
8 Consideration: categorical exemption. (PRC 9039.1;
9 RA# 03214) (A 33; S 18) (Staff: R. Collins)

10
11 C66 TODD Y. KING AND SHAREEN M. KING, TRUSTEES OF
12 THE TODD AND SHAREEN KING LIVING TRUST, DATED JULY
13 30, 2009 (LESSEES): Consider application for an
14 Amendment to Lease No. PRC 9121.1, a General Lease -
15 Recreational and Protective Structure Use, of
16 sovereign land located in the Colorado River,
17 adjacent to 1166 Beach Drive, city of Needles, San
18 Bernardino County; to allow for the construction of
19 an aluminum gangway with railing, a floating
20 walkway, and boat dock; and revise the annual rent
21 accordingly. CEQA Consideration: categorical
22 exemption. (PRC 9121.1; RA# 03814) (A 33; S 18)
23 (Staff: R. Collins)

24
25 C67 MARK A. BANTLE, JR. AND JENNIFER K. BANTLE AND
JOSEPH E. BROWN AND EVELYN M. BROWN, TRUSTEES OF THE
JOSEPH E. BROWN AND EVELYN M. BROWN FAMILY TRUST
(LESSEE): Consider application for an amendment to
Lease No. PRC 9135.1, a General Lease - Recreational
and Protective Structure Use, of sovereign land
located in the Colorado River, adjacent to 1154
Beach Drive, city of Needles, San Bernardino County;
to allow for construction of an aluminum gangway
with railing, floating walkway and boat dock; and
revise the annual rent accordingly. CEQA
Consideration: categorical exemption. (PRC 9135.1;
RA# 11213) (A 33; S 18) (Staff: R. Collins)

C68 JESSE A. BERBER AND ELIZABETH A. BERBER, AS
TRUSTEES OR ANY SUCCESSOR TRUSTEE OF THE JESSE A.
BERBER AND ELIZABETH A. BERBER FAMILY TRUST DATED
JULY 6, 2001 (LESSEE): Consider application for an
amendment to Lease No. PRC 9282.1, a General Lease -
Recreational and Protective Structure Use, of
sovereign land located in the Colorado River,
adjacent to 1138 Beach Drive, city of Needles, San
Bernardino County; to allow for construction of an
aluminum gangway with railing and a floating boat.

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I N D E X C O N T I N U E D

C68(CONTINUE) Dock; and revise the rent accordingly.
CEQA Consideration: categorical exemption. (PRC
9282.1; RA# 03714) (A 33; S 18) (Staff: R. Collins)

C69 COUNTY OF SANTA BARBARA SHERIFF'S DEPARTMENT
(LESSEE): Consider termination of Lease No. PRC
7819.9, a General Lease - Public Agency Use of
sovereign land located in the Burton Mesa Ecological
Reserve, near the city of Lompoc, Santa Barbara
County for an equestrian training center. Not a
project. (PRC 7819.9) (A 35; S 19) (Staff: R.
Collins)

C70 FREEPORT-MCMORAN OIL & GAS, LLC (LESSEE):
Consider revision of rent to Lease No. PRC 6911.1, a
General Lease - Right-of-Way Use, of 33.288 acres of
land located in the Pacific Ocean, near Point
Pedernales, offshore of the city of Lompoc, Santa
Barbara County; for a 4.1-inch diameter power cable,
a 20-inch diameter crude oil pipeline, an 8.625-inch
diameter gas pipeline, and an 8.625-inch diameter
wastewater pipeline serving Platform Irene. CEQA
Consideration: not a project. (PRC 6911.1) (A 35; S
19) (Staff: R. Collins)

C71 CITY OF ENCINITAS (APPLICANT): Consider
application for a General Lease - Public Agency Use,
of sovereign land located in the Pacific Ocean, in
the city of Encinitas, San Diego County, for the
deposition of up to a maximum of 117,000 cubic yards
(cy) of sand annually at Batiquitos Beach, and up to
a maximum of 105,000 cy of sand annually at
Moonlight State Beach under the City of Encinitas
Opportunistic Beach Fill Program previously
authorized by the Commission; and the deposition of
up to a maximum of 132,000 cy of sand annually at
Leucadia State Beach, and up to a maximum of 101,000
cy of sand annually at Cardiff State Beach under the
same program, but not previously authorized by the
Commission. CEQA Consideration; Mitigated Negative
Declaration, adopted by the City of Encinitas, State
Clearinghouse No. 2013111057, and adoption of a
Mitigation and Monitoring Program. (PRC 8817.9; RA#
34712) (A 76; S 38) (Staff: K. Foster)

C72 PETER V. SPERLING AND STEPHANIE G. SPERLING,
TRUSTEES OF THE 1461 EDGECLIFF LANE TRUST U/D/T

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I N D E X C O N T I N U E D

C73(CONTINUE)general Lease - Protective Structure Use, of.

C72(CONTINUE) sovereign land located in the Pacific Ocean, near the city of Santa Barbara, Santa Barbara County; for an existing rock riprap shoreline protective structure adjacent to 1461 Edgecliff Lane. CEQA Categorical exemption. (PRC6822.1; RA# 08613) (A 37; S 19) (Staff: K. Foster)

C73 SAN DIEGO UNIFIED PORT DISTRICT (LESSEE): Consider application for an encumbrance agreement by Sunroad Harbor Island as sublessee under Lease No. PRC 8876.1, a General Lease - Commercial Use of sovereign land within San Diego Bay, in the City of San Diego, San Diego County; for a portion of a floating barge and appurtenant structures to be used as a restaurant facility. CEQA Consideration: not a project. (PRC 8876.1; RA# 26813) (A 78; S 39) (Staff: K. Foster)

C74 DAVID JAY WINKLER AND SHERRY LYNN WINKLER, TRUSTEES OF THE WINKLER TRUST DATED JUNE 5, 1991 (LESSEE): Consider an application for amendment to Lease No. PRC 7789.1, a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean adjacent to 521 Pacific Avenue, city of Solana Beach, San Diego County; to revise the Lease Premises and associated annual rent. CEQA Consideration: not a project. (PRC 7789.1) (A 78; S 39)(Staff: K. Foster)

C75 MICHAEL S. MORRIS, TRUSTEE OF THE WILLIAM S. BANNASCH LIVING TRUST DATED AUGUST 30, 2002 (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean, adjacent to 523-525 Pacific Avenue, in the city of Solana Beach, San Diego County; for the removal of one seacave/notch fill, the expansion, use and maintenance of an existing seacave/notch fill, and the use and maintenance of a portion of an existing seawall. CEQA Consideration: California Coastal Commission Coastal Development Permit No. 6-13-0948. (PRC 7128.1; RA# 29212) (A 78; S 39)(Staff: K. Foster)

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I N D E X C O N T I N U E D

C76 (CONTINUE) MELTON L. BACON AND KATHERINE L. BACON,
TRUSTEES OF THE MELTON BACON AND KATHERINE L.

C76 (CONTINUE) BACON FAMILY TRUST (APPLICANT):
Consider application for a General Lease -
Recreational Use, of sovereign land located in the
Main Channel of Huntington Harbour, adjacent to
16572 Somerset Lane, Huntington Beach, Orange
County; for an existing boat dock, access ramp, and
cantilevered deck. CEQA Consideration: categorical
exemption. (PRC 3168.1; RA# 02014) (A 72; S 34)
(Staff: A. Franzoia)

C77 BAYLESS CONLEY AND JANET D. CONLEY (APPLICANT):
Consider application for a General Lease -
Recreational Use, of sovereign land located in the
Midway Channel of Huntington Harbour, adjacent to
3452 Gilbert Drive, Huntington Beach, Orange County;
for an existing boat dock and access ramp. CEQA
Consideration: categorical exemption. (PRC 3251.1;
RA# 00914) (A 72; S 34) (Staff: A. Franzoia)

C78 JANE P. KING (APPLICANT): Consider application
for a General Lease - Recreational Use, of sovereign
land located in the Main Channel of Huntington
Harbour, adjacent to 16662 Somerset Lane, Huntington
Beach, Orange County; for an existing boat dock and
access ramp. CEQA Consideration: categorical
exemption. (PRC 3243.1; RA# 00814) (A 72; S 34)
(Staff: A. Franzoia)

C79 CYNTHIA D. WILLIAMS AND NICHOLAS DIBENEDETTO,
TRUSTEES OF THE WILLIAMS-DIBENEDETTO TRUST, DATED
JULY 30, 2008 (LESSEE): Consider revision of rent to
Lease No. PRC 5749.1, a General Lease - Recreational
Use, of sovereign land located in Huntington
Harbour, adjacent to 16632 Coral Cay Lane, city of
Huntington Beach, Orange County; for an existing
boat dock, access ramp, and cantilevered deck. CEQA
Consideration: not a project. (PRC 5749.1) (A 72; S
34) (Staff: D. Oetzel)

C80 CALIFORNIA STATE LANDS COMMISSION AND CALIFORNIA
COASTAL COMMISSION (PARTIES): Consider acceptance of
one offer to dedicate lateral public

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I N D E X C O N T I N U E D

C80 (CONTINUE) access easement over land adjacent to State tidelands in the city of Malibu, 28126 Pacific Coast Highway, Los Angeles County. CEQA Consideration: not a project. (W 24665) (A 50; S 27) (Staff: D. Simpkin)

C81 ELSIE SUE PIERSON, CO-TRUSTEE OF THE PIERSON FAMILY TRUST, UDT DATED MARCH 25, 2004 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16522 Somerset Lane, Huntington Beach, Orange County; for use and maintenance of a boat dock, access ramp, and cantilevered deck. CEQA Consideration: categorical exemption. (PRC 3166.1; RA# 02414) (A 72; S 34) (Staff: D. Simpkin)

C82 CALIFORNIA DEPARTMENT OF TRANSPORTATION (APPLICANT): Consider application for a right-of-way map pursuant to Section 101.5 of the Streets and Highways Code, of sovereign land located in the San Elijo Lagoon, city of Encinitas, San Diego County; for a right-of way including the replacement of an existing bridge. CEQA Consideration Environmental Impact Report/Statement, certified by the California Department of Transportation, District 11, State Clearinghouse No. 2004101076, and adoption of a Mitigation and Monitoring Program and Statement of Findings. (PRC 9148.9; RA# 24413) (A 76; S 38, 39) (Staff: D. Simpkin)

SCHOOL LANDS

C83 JOHN BARNUM (APPLICANT): Consider application for a General Lease - Grazing Use, of State indemnity school land, located in portions of Sections 11, 12, 13, and 14, Township 26 North, Range 16 East MDM and Sections 6 and 7, Township 26 North, Range 17 East, MDM, near Herlong, Lassen County; for livestock grazing and existing fencing. CEQA Consideration; categorical exemption. (PRC 6823.2; RA# 17313) (A 1; S 1) (Staff: C. Hudson)

I N D E X C O N T I N U E D

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2 C84 EL PASO NATURAL GAS COMPANY (LESSEE): Consider
3 revision of rent to Lease No. PRC 7527.2, a General
4 Lease - Right-of-Way Use, of State indemnity school
5 land located in portions of Sections 26 and 27,
6 Township 9 North, Range 2 East, SBM, southeast of
Barstow, San Bernardino County; for an existing
30-inch diameter natural gas pipeline, known as Line
No. 1903. CEQA Consideration: not a project. (PRC
7527.2) (A 33; S 18) (Staff: C. Hudson)

7 C85 PLUMAS-SIERRA RURAL ELECTRIC COOPERATIVE, INC.
8 (APPLICANT): Consider application for a General
9 Lease - Right-of-Way Use, of State school land
10 located in a portion of Section 36, Township 24
11 North, Range 17 East, MDM, near the town of Doyle,
12 Lassen County; for an existing overhead 7.2 kilovolt
(kV) distribution line and overhead 69 kV
transmission line, an overhead fiber-optic cable,
approximately seven wood poles and an access road.
CEQA Consideration; categorical exemption. (PRC
7458.2; RA# 26313) (A 1; S 1) (Staff: C. Hudson)

13 C86 CALNEV PIPE LINE, LLC (LESSEE): Consider
14 revision of rent to Lease No. PRC 2702.2, a General
15 Lease - Right-of-Way Use, on two parcels of State
16 school land located in portions of Track 37, 16
17 North, Range 11 East and Section 16, Township 16
18 North, Range 13 East, SBM, near Valley Wells, San
Bernardino County, for an existing 8-inch diameter
underground petroleum pipeline and an existing
14-inch diameter underground petroleum pipeline.
CEQA Consideration: not a project. (PRC 2702.2) (A
33; S 18) (Staff: C. Hudson)

19 C87 JOHN MATLEY & SON (LESSEE): Consider revision of
20 rent to Lease No. PRC 5531.2, a General Lease -
21 Grazing Use, of State school land located in
22 portions of Section 16, Township 25 North, Range 15
23 East and Section 36, Township 26 North, Range 15
24 East, MDM, near the town of Doyle, Plumas County;
25 for cattle grazing. CEQA Consideration; Not a
project. (PRC 5531.2) (A 1; S 1) (Staff: C. Hudson)

23 C88 CITIZENS TELECOMMUNICATIONS COMPANY OF
24 CALIFORNIA INC.(LESSEE): Consider revision of rent
25 to Lease No. PRC 8145.2, a General Lease -
Right-of-Way Use, of State school land located in.

I N D E X C O N T I N U E D

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2 C88(CONTINUE)A portion of Section 16, Township
3 North, Range 5 East, MDM, near the unincorporated
4 town of Burney, Shasta County; for an existing
5 aerial fiber-optic cable and wood poles. CEQA
6 Consideration; Not a project. (PRC 8145.2) (A 1; S
7 1) (Staff: C. Hudson)

8 C89 QUESTAR SOUTHERN TRAILS PIPELINE (LESSEE):
9 Consider revision of rent to Lease No. PRC 8255.2, a
10 General Lease - Right-of-Way Use, of State school
11 land on four parcels located in portions of Section
12 16, Township 9 North, Range 21 East; Section 36,
13 Township 9 North, Range 20 East; Section 16,
14 Township 8 North, Range East; and Section 16,
15 Township 7 North, Range 18 East, SBM, near
16 Twentynine Palms, San Bernardino County; for an
17 existing underground 16-inch diameter natural gas
18 pipeline and one cathodic protection unit. CEQA
19 Consideration: not a project.(PRC 8255.2) (A 33; S
20 18) (Staff: C. Hudson)

21 C90 GEYSERS POWER COMPANY, LLC (LESSEE): Consider
22 revision of rent to Lease No. PRC 6793.2, a General
23 Lease - Right-of-Way Use, of State indemnity school
24 land located in a portion of Section 6, Township 11
25 North, Range 8 West MDM, east of Cloverdale, Lake
County; for an existing above-ground 12-inch
diameter steam pipeline and an unpaved access road.
CEQA Consideration: not a project.(PRC 6793.2) (A 1;
S 2) (Staff: C. Hudson)

C91 CELTIC ENERGY CORPORATION (APPLICANT): Consider
six applications for a General Lease - Data
Collection Use, of State school lands and indemnity
school land located in Sections 13, 23 and 24,
Township 20 South, Range 37 East; Section 16,
Township 24 South, Range 38 East; MDM, Inyo County,
Section 28, Township North, Range 13 West and
Section 32, Township 10 North, Range 12 West, SBM,
Kern County; Section 16, Township 31 South, Range 34
East, MDM, Kern County, and Section 16, Township 17
South, Range 8 East, SBM, San Diego County; for the
installation, operation, and maintenance of six wind
energy monitoring stations. CEQA Consideration
Statutory exemption. (W 26441, W 26442, W 26443, W
26444; RA# 01710, 01810, 02010, 02110, 01910.

I N D E X C O N T I N U E D

C91(CONTINUE)01610) (A 26, 33, 34; S 8 16) (Staff: J. Porter)

C92 OSKI ENERGY, LLC (APPLICANT): Consider authorizing acceptance of a quitclaim for Lease No. PRC 8959.2, a General Lease - Right-of-Way Use, of State Indemnity school lands located in Sections 19, 30 and 31, Township 12 North, Range 8 West, and Sections 11, 12, 13, 14, 15, 23, 24, 25 and 26, Township 12 North, Range 9 West, MDM, east of Cloverdale, Lake and Mendocino counties; for the use and maintenance of one existing access road. CEQA Consideration: not a project.(PRC 8959.2) (A 1; S 2) (Staff: J. Porter)

MINERAL RESOURCES MANAGEMENT

C93 CALIFORNIA STATE LANDS COMMISSION: Consider approval of qualifying miles for Subventions for fiscal year 2014-2015, to Cities of Carpinteria, Huntington Beach, Seal Beach, and Long Beach; Ventura, Santa Barbara, Orange, and Los Angeles Counties. CEQA Consideration not a project. (W 4848.1, W 4848.3, W 4848.4, W 4848.5, W 4848.6, W 4848.8) (A 37, 70, 72, 74; S 19, 34, 37)(Staff: N. Heda, D. Brown)

C94 RONALD JAMES MARTIN (APPLICANT): Consider application for a prospecting permit for minerals other than oil, gas, geothermal resources, and sand and gravel on State school lands, Kern County. CEQA Consideration: categorical exemption.(W 40975; RA# 23213) (A 34; S 18) (Staff: V. Perez)

C95 GAHAGAN AND BRYANT ASSOCIATES, INC. (APPLICANT): Consider a Non- Exclusive Geophysical Survey Permit on tide and submerged lands under the jurisdiction of the California State Lands Commission. CEQA Consideration: Mitigated Negative Declaration, State Clearinghouse No. 2013072021, and re- adoption of a Mitigation Monitoring Program. (W 6005.147, RA# 05914)(A & S: Statewide) (Staff: R. B. Greenwood, K. Keen)

C96 VENOCO, INC. (ASSIGNOR) AND VINTAGE PETROLEUM, LLC (ASSIGNEE): Consider: 1) an assignment of 100.

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I N D E X C O N T I N U E D

C96(CONTINUE) percent of Venoco, Inc.'s interest in Oil and Gas Lease Nos. PRC 735.1 and PRC 3314.1 to Vintage Petroleum, LLC; 2) consent to the acceptance of the change in the Parental Guaranty to the newly formed California Resources Corporation, Montalvo Oil Field, Ventura County. CEQA Consideration: not a project. (PRC 735.1, PRC 3314.1; RA# 06414) (A 37; S 19)(Staff: N. Saito)

C97 ROYALE ENERGY, INC. (APPLICANT): Consider acceptance of the full Quitclaim Deed of a Negotiated Subsurface (no surface use) Oil and Gas Lease No. PRC 8572.1, Steamboat and Sutter Sloughs, Sacramento and Solano Counties. CEQA Consideration: not a project. (PRC 8572.1) (A 11; S 3) (Staff: N. Heda)

MARINE FACILITIES - NO ITEMS

ADMINISTRATION

C98 TUOLUMNE RIVER PRESERVATION TRUST AND CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider a request for authority for the Executive Officer to enter into an agreement with the Tuolumne River Preservation Trust for Phase 2 of the Dennett Dam Removal Project located on sovereign land within the lower Tuolumne River, city of Modesto, Stanislaus County. CEQA Consideration: not a project. (A 21; S 12) (Staff: G. Kato, A. Abeleda)

LEGAL - NO ITEMS

KAPILOFF LAND BANK TRUST ACTIONS - NO ITEMS

EXTERNAL AFFAIRS

GRANTED LANDS

C99 CITY OF LOS ANGELES (APPLICANT): Consider a proposed resolution of the City Council of the City of Los Angeles, pursuant to Public Resources Code section 7060, to enter into an agreement for oil exploration in the Wilmington Oil Field located.

I N D E X C O N T I N U E D

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2 C99(CONTINUE) within legislatively granted sovereign
3 land in the City of San Pedro, Los Angeles Counties.
4 CEQA Consideration not a project. (G 05-04) (A 70; S
5 28, 35)(Staff: R. Boggiano)

6
7 C100 CITY OF PITTSBURG (APPLICANT): Consider a
8 record of survey and legal description depicting the
9 location and extent of the state owned sovereign
10 tide and submerged lands legislatively granted to
11 the City of Pittsburg, Contra Costa County. CEQA
12 Consideration not a project. (G 02-03) (A 11; S
13 7)(Staff: R. Boggiano)

14
15 C101 CALIFORNIA DEPARTMENT OF PARKS AND RECREATION,
16 THE OFFICE OF COMMUNITY INVESTMENT AND
17 INFRASTRUCTURE (SUCCESSOR AGENCY TO THE SAN
18 FRANCISCO REDEVELOPMENT AGENCY), THE CITY AND COUNTY
19 OF SAN FRANCISCO, THE PORT OF SAN FRANCISCO AND THE
20 CALIFORNIA STATE LANDS COMMISSION (PARTIES):
21 Consider the Record of Survey and legal descriptions
22 for the second closing of the Hunters Point
23 Shipyard/Candlestick Point Title Settlement, Public
24 Trust Exchange and Boundary Line Agreement and
25 related parcel boundary adjustments, concerning land
within Candlestick Point and the former Hunters
Point Naval Shipyard, City and County of San
Francisco. CEQA Consideratin: Not a project. (AD
557; W 26279; G11-00.7, G11-01) (A 17; S 11) (Staff:
J. Porter, K. Colson)

17 C102 TREASURE ISLAND DEVELOPMENT AUTHORITY AND THE
18 CALIFORNIA STATE LANDS COMMISSION (PARTIES):
19 Consider the rescission of prior approval and
20 approval of a revised Compromise Title Settlement
21 and Land Exchange Agreement between the State of
22 California, acting by and through the State Lands
23 Commission and the Treasure Island Development
24 Authority involving certain lands located on
25 Treasure Island and Yerba Buena Island, San
Francisco Bay, City and County of San Francisco.
CEQA Consideration: statutory exemption. (AD 599; W
25115; G11-02) (A 17; S 11) (Staff: S. Scheiber, K.
Colson, R. Boggiano, E. Page)

24 C103 CITY OF LONG BEACH (APPLICANT): Review the
25 proposed expenditure of tideland oil revenues, in.

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I N D E X C O N T I N U E D

C103(CONTINUE) an amount not to exceed \$2,550,729 by the City of Long Beach for one capital improvement project located within legislatively granted sovereign land in the City of Long Beach, Los Angeles County. CEQA Consideration: not a project. (G 05-03) (A 70; S 28, 33) (Staff: R. Boggiano)

C104 SAN DIEGO UNIFIED PORT DISTRICT (APPLICANT): Review the proposed expenditure of tidelands funds, in an amount not to exceed \$300,000, by the San Diego Unified Port District for a capital improvement project located on or adjacent to legislatively granted sovereign land in the City of San Diego, San Diego County. CEQA Consideration: Not a project. (G 10-08) (A 80; S 40) (Staff: R. Boggiano)

LEGISLATION AND RESOLUTIONS - NO ITEMS

V. INFORMATIONAL

105 CALIFORNIA STATE LANDS COMMISSION: Legislative report providing information and a status update concerning state and federal legislation relevant to the California State Lands Commission. CEQA Consideration: not applicable.(A & S: Statewide) (Staff: S. Pemberton, M. Moser)

106 THE FOLLOWING ITEM IS INFORMATIONAL ONLY AND MAY BE DISCUSSED AND ACTED UPON IN A CLOSED SESSION. CONFERENCE WITH REAL PROPERTY NEGOTIATORS: Instructions to negotiators regarding entering into a new lease of state land for the Broad Beach restoration Project, City of Malibu, Los Angeles County. Negotiating parties: Broad Beach Geologic Hazard Abatement District, State Lands Commission: Under negotiation: price and terms. CEQA Consideration: not applicable.

VI. REGULAR CALENDAR

107 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider a request for authority to approve the. Budget, as submitted by the successful bidder, for.

I N D E X C O N T I N U E D

107(CONTINUE)A study to examine the feasibility of shore-based reception and treatment facilities for the management of discharged ballast water in California. CEQA Consideration: not a project. (W 9777.234, W 9777.290, W 9777.295, C2013-13) (A & S: Statewide)(Staff: C. Brown, N. Dobroski, L. Kovary, D. Brown); REMOVED FROM AGENDA

108 BAY CITY PARTNERS LLC AND STATE LANDS COMMISSION (PARTIES): Consider a Compromise Title Settlement and Land Exchange Agreement involving certain interests in land located adjacent to and in the San Gabriel River, and along First Street and Marina Drive, City of Seal Beach, California. (APNs: 043-171-02, 043-172-07 (portions), 043-172-08, 043-172-12, and 043-172-13). CEQA Consideration: statutory exemption; Addendum prepared by State Lands Commission and related Environmental Impact Report certified by City of Seal Beach, State Clearinghouse No. 2011061018. (W 26609) (A 72; S 34)(Staff: R. Collins, K. Colson);

5

109 PORT OF LOS ANGELES (GRANTEE): Consider supplemental information involving an existing revocable permit issued by the Port of Los Angeles to Rancho LPG Holdings LLC for use of a railroad spur located within the legislative grant to the Port of Los Angeles, in the City of Los Angeles, Los Angeles County. CEQA Consideration: Not a project. (G 05-04) (A 70; S 28, 35) (Staff: R. Boggiano, K. Colson, S. Scheiber);

57

110 CALIFORNIA STATE LANDS COMMISSION (INFORMATIONAL): Low Energy Offshore Geophysical Permit Program One-Year Program Implementation Report, including recommendations for Program administration and summary of the geophysical activities that have occurred under the updated Program since its adoption by the Commission on September 20, 2013. CEQA Consideration: not applicable. (W 30177) (A & S: Statewide) (Staff: R. B. Greenwood, J. DeLeon, J. Fabel);

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VII. PUBLIC COMMENT

VIII. COMMISSIONERS' COMMENTS

IX. CLOSED SESSION: AT ANY TIME DURING THE MEETING THE

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I N D E X C O N T I N U E D

COMMISSION MAY MEET IN A SESSION CLOSED TO THE PUBLIC TO CONSIDER THE FOLLOWING PURSUANT TO GOVERNMENT CODE SECTION 11126:

A. LITIGATION.

THE COMMISSION MAY CONSIDER PENDING AND POSSIBLE LITIGATION PURSUANT TO THE CONFIDENTIALITY OF ATTORNEY- CLIENT COMMUNICATIONS AND PRIVILEGES PROVIDED FOR IN GOVERNMENT CODE SECTION 11126(e).

1. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(e)(2)(A): California State Lands Commission v. City and

County of San Francisco

United States v. California (1965) 381 U.S.

139, No. 5 Original

Redwood Square Enterprises, LLC v. Standard Brands.

Paint Co. et al.

Seacliff Beach Colony Homeowners Association v.

State of California et al.

State of California, acting by and through the

State Lands Commission v. Singer

Defend Our Waterfront v. California State.

Lands Commission et al

The Melton Bacon and Katherine L. Bacon Family

Trust et al. v. California State Lands Commission,

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I N D E X C O N T I N U E D

City of Huntington Beach
SLPR, LLC et al. v. San Diego Unified Port
District, State Lands Commission
San Francisco Baykeeper v. State Lands
Commission City of Los Angeles v. Great Basin Unified
Air Pollution Control District et al.
City of Los Angeles v. California Air Resources
Board et al.
California State Lands Commission v. Edward L.
Clark Jr.
Keith Goddard v. State of California.

2. THE COMMISSION MAY CONSIDER MATTERS THAT FALL
UNDER GOVERNMENT CODE SECTION 11126(e)(2)(B) or
(2)(C).

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS.

THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER
GOVERNMENT CODE SECTION 11126(c)(7) - TO PROVIDE
DIRECTIONS TO ITS NEGOTIATORS REGARDING PRICE AND
TERMS FOR LEASING OF REAL PROPERTY.

1. Provide instructions to negotiators regarding
entering into a new lease of state land for the
Broad Beach Restoration Project, City of Malibu, Los
Angeles County. Negotiating parties: Broad Beach
Geologic Hazard Abatement District, State Lands
Commission; Under negotiation: price and terms.

C. OTHER MATTERS

THE COMMISSION MAY ALSO CONSIDER PERSONNEL ACTIONS
TO APPOINT, EMPLOY, OR DISMISS A PUBLIC EMPLOYEE AS
PROVIDED IN GOVERNMENT C

1 P R O C E E D I N G S

2 ACTING CHAIRPERSON GORDON: I call this meeting
3 of the State Lands Commission to order. All the
4 representatives and commissioners are present. My name is
5 Alan Gordon representing State Controller John Chiang.
6 I'm joined to by Lieutenant Governor representative, Kevin
7 Smith, and Eraina Ortega, representative of the Department
8 of Finance.

9 For the benefit of those in the audience, the
10 State Lands manages State property interest in over 5
11 million acres of land, including mineral interests.
12 Specifically, the commission has jurisdiction in filled
13 and unfilled tide and submerged land, navigable waterways
14 and State school lands. Commission also has
15 responsibility for the prevention of oil spills at marine
16 oil terminals and offshore oil platforms, and for
17 prevention of the introduction of marine invasive species
18 into the waters of California.

19 Today we'll hear request and presentations
20 concerning the leasing, management, and regulations of
21 public lands. Both public sovereign and school land
22 properties interest and the activities occurring and
23 propose thereon. First item of business will be the
24 adoption of the minutes from the commissions
25 teleconference meeting of September 2nd, 2014.

1 May I have a motion to approve the minutes,
2 please?

3 DEPUTY ATTORNEY GENERAL RUSCONI: Commissioner
4 Gordon, I just want to remind everybody we have two
5 alternates today. So only one can vote on any particular
6 item.

7 ACTING CHAIRPERSON GORDON: Okay. I have a
8 motion and a second. All those in favor?

9 (Ayes.)

10 All those opposed? Motion is adopted.

11 Next order of business is the Executive Officer's
12 report. Ms. Lucchesi, may we have that report, please.

13 EXECUTIVE OFFICER LUCCHESI: Good afternoon,
14 Commissioners, I just have two items to report on. The
15 first is just a status update on the Desert Renewable
16 Energy Conservation Plan involving State lands in the
17 Southern California Desert. On September 10th, 2014,
18 commission staff submitted an application as a participant
19 in the DRECP for Federal and State incidental take permit
20 pursuant to Federal and State and endanger species laws.
21 Submittal of this application was authorized by the
22 commission at its September 2013 meeting. If the DRECP
23 and permits are eventually approved, these permits would
24 allow the commission to streamline its leasing of school
25 lands for DRECP compliant projects located in designated

1 development areas.

2 An important milestone on the DRECP planning
3 process was reached on September 26th when the draft DRECP
4 EIR/EIS was released for public review and comment.
5 Interested parties can download and view the documents,
6 learn how to comment, and learn when and where public
7 meetings will be held by visiting DRECP.org.

8 The DRECP preparers have also developed an
9 interactive mapping application that allows users to
10 review the geophysical data and models used to develop the
11 DRECP called the DRECP gateway. The gateway is an
12 exciting and innovative use of mapping technology that
13 increases public involvement and facilitates agency
14 disclosure and transparency.

15 Public workshops for the draft DRECP and EIR/EIS
16 will be held in late October and early November, and the
17 comment period will end on January 9th, 2015. Second, I
18 wanted to just acknowledge a very successful Prevention
19 First, 2014 conference that the State Lands Commission put
20 on last week in Long Beach. This is an onshore and
21 offshore pollution prevention symposium and technology
22 exhibition. The State Lands Commission, as I mentioned,
23 Prevention First Conference was really a huge success.
24 The conference brings together experts and professionals
25 from academia industry, and government from around the

1 country to share information and introduce concepts and
2 pollution prevention.

3 The general session included remarks from
4 Captain Tom Collin, Augsburg Administrator, and Long Beach
5 Major, Robert Garcia. And panelist discussions included
6 topics such as current topics in oil and gas development,
7 rail transport of crude oil, mode temps compliance,
8 pipeline safety, and marine invasive species. We had over
9 a hundred attendees at this conference last week. And I
10 want to acknowledge and extend an enormous thank you to
11 our two largest division chiefs in Long Beach. Our Marine
12 Facilities Division Chief, Laura Kovary, her staff, and
13 also Mineral Resources Management Division Chief, Marina
14 Voskanian and her staff for organizing such an amazing
15 conference on behalf of the State Lands Commission and
16 that concludes my report. Thank you.

17 ACTING CHAIRPERSON GORDON: Next order of
18 business will be the adoption of the consent calendar.
19 Ms. Lucchesi, can you please indicate which items, if any,
20 have been removed from the calendar?

21 JENNIFER LUCCHESI: Item C23, C40, C50, C64,
22 C68, C99, C104 and regular item 107 are removed from the
23 agenda and will be considered at a later time. One
24 second, and we do have a request to speak in support of
25 Calendar Item 47. So I'm not sure if we want to ask

1 Mr. Toaz if he wants to speak, even if it's going to stay
2 on the consent agenda. I'm not quite sure.

3 ACTING CHAIRPERSON GORDON: Mr. Toaz?

4 MR. TOAZ: I would like to say something.

5 ACTING CHAIRPERSON GORDON: Come forward please.

6 EXECUTIVE OFFICERLUCCHESI: Actually --

7 ACTING CHAIRPERSON GORDON: Let's vote on it.

8 EXECUTIVE OFFICERLUCCHESI: Yes. So we'll
9 remove C47 from the consent agenda and move it to the
10 regular agenda. And that looks like it's it.

11 ACTING CHAIRPERSON GORDON: Is there anyone in
12 the audience who wish to speak on an item on the consent
13 calender? No? If not, we'll now proceed to a vote on the
14 consent calendar. Do we have a motion, please? We have a
15 motion from Ms. Ortega and a second from Mr. Schmidt. All
16 those in favor?

17 (Ayes.)

18 It passes two to nothing.

19 Next order of business will be the regular
20 calendar. Item 108 is to consider a compromise title
21 settlement and land exchange agreement involving certain
22 interest in land located adjacent to and in the San
23 Gabriel River in the City of Seal Beach.

24 May we have the staff presentation, please.

25 MS. COLSON: Good afternoon, Commissioners. My

1 name is Kathryn Colson, Staff Attorney at the State Lands
2 Commission, and I'll be giving the staff presentation of
3 Item 108, the Proposed Compromise Title Settlement Land
4 Exchange Agreement involving certain interest in land
5 adjacent to and in the San Gabriel River.

6 The two parties to the proposed agreement are
7 Bay City Partners LLC, and the commission. Okay. Bay
8 City owns the 10.9 acre site, which is located along the
9 San Gabriel River, City of Seal Beach. To the north of
10 the site is Marina Drive which is right up here. First
11 Street is located along the east side, and to the south is
12 a facility called the River's Edge Staging Area that
13 consists of a parking lot, restaurant, grass area for wind
14 surfing and staging for other appurtenant facilities. On
15 the other side of the River's Edge is the Pacific Ocean.

16 Here's a brief site history: from the 1920s to
17 1967 a power plant operated by the Los Angeles Department
18 of Water and Power was located on the site. The power
19 plant was demolished in 1967, and in 1987 LADWP remove the
20 remaining subsurface remnants and remediated the asbestos
21 contamination. Currently, there are no environmental
22 impairment restriction on the property, and since the
23 1980s the site has been vacant and fenced, except for the
24 bike path which runs along the San Gabriel River on the
25 site.

1 So this is a picture that, kind of, shows the
2 site, all the project areas here, and you can see the
3 rivers and staging area and the San Gabriel River to the
4 west. So this is State Lands, I'll give you the title
5 history for the property: Back in the 1960s and early
6 '70s, State Lands Commission entered into several boundary
7 line and title settlement agreements in this area.

8 Those settlements were based in part by a 1966
9 resurvey of Tidelands Location No. 137. This Tidelands
10 survey encompass Alamitos Bay and a portion of the site.
11 In 1968 Boundary Line Agreement 94 was entered into by the
12 Commission, the City of Seal Beach, LADWP, and numerous
13 other parties.

14 BLA 94 fixed the boundary between Rancho Los
15 Alamitos and Tidelands Location No. 137. So if you can
16 see on this map, the parcel that I'll be explaining soon is
17 called the Trust Termination Easement Parcel. It's called
18 Parcel 9 right here, and you can kind of see BLA 94 up
19 into the water of the San Gabriel River, and then it cuts
20 back in, and so on the south part of this map everything
21 there is in the Rancho Los Alamitos, and on the north
22 waterwork side of that line would be the Tidelands Survey
23 Location, No. 137, which is land that was sold by the
24 State, but there was a public trust easement remaining on
25 that Tidelands location land.

1 Then in 1970 there was another boundary line and
2 land exchange agreement. It extended the boundary line of
3 94 further up coast, it also confirmed the public trust
4 easement on certain properties, terminated the public
5 trust easement on other third parcels along the San
6 Gabriel River, and as a part of that exchange, the
7 commission received fee title to approximately 2.78 acre
8 parcel that's just north of the PCH.

9 So here is a picture of the proposed development
10 on the 10.9 acre site. Bay city has proposed to build a
11 32-lot residential development that would be located on
12 approximately 4.5 acres of the site. The remaining 6.4
13 acres of this site will be transfer to the city for public
14 open space. So the proposed Land Exchange Agreement
15 involves two easement parcels.

16 So the first parcel is the Trust Termination
17 Easement Parcel on this map. If you can see it right
18 here, it's labeled Parcel A. So that parcel is 1.16
19 acres, and it currently has the Public Trust Easement
20 located on this site. The second parcel is the public
21 trust easement parcel, and this parcel is labeled Parcel
22 B. It's slightly larger. It's 1.17 acres. It's a long
23 parcel. It's kind of located along and in the San Gabriel
24 River. So Bay City is proposing to convey to the
25 Commission a public trust easement in that public trust

1 easement parcel, in exchange for the commission
2 terminating the easement in the existing public trust
3 easement on the trust termination easement parcel.

4 In addition, Bay City will deposit \$2.71 million
5 with the commission to be held in the Kapiloff Land-base
6 Fund. This money will be used to purchase outstanding
7 interest and tide and submerge lands or a nearby land that
8 are necessary and beneficial for trust purposes. So just
9 to talk a little bit about the public trust easement
10 parcel, as you can see, it's located in and along the San
11 Gabriel River, because this parcel is currently located
12 within the boundary of Rancho Los Alamitos, the Commission
13 currently has no sovereign ownership interest within this
14 parcel. And this public trust easement parcel provides
15 better direct and continuous access to the San Gabriel
16 River than the existing trust termination easement parcel.

17 It's currently approved with a portion of the
18 San Gabriel River bike path which stretches many miles
19 inland to the San Gabriel Mountains, and by obtaining a public
20 trust easement in this parcel, the Commission will ensure
21 that the public will always have a right to use this bike
22 path. So this is just kind of a -- another picture of,
23 basically, the trust termination easement parcel and the
24 public trust easement parcel. Pursuant to Public Resources
25 Code 6307, there are several finding the Commission has

1 to make in order to approve a land exchange.

2 The first the agreement has to be for one of the
3 purposes listed in Public Resources Code 6307. Staff
4 believes that the purpose of this agreement is to first
5 enhance access and recreation along the water. Second,
6 enhance the physical configuration of the trust land
7 ownership and third, resolve a title dispute of whether
8 there's a valid public trust easement on the trust
9 termination easement parcel.

10 And just to expand on that a little bit, the
11 public trust easement parcel again is located in and along
12 the San Gabriel River and will allow for water access and
13 public access along the river, and the public trust
14 easement parcel is currently located adjacent to sovereign
15 ownership interest in the river. Whereas, the trust
16 termination parcel there is a gap between the sovereign
17 ownership.

18 The second finding, the public trust easement
19 parcel will provide significant benefits to the trust.
20 This parcel provides public access and recreation to and
21 along and in the San Gabriel River. Additionally, the
22 2.71 million will be used to purchase outstanding interest
23 in tide and submerge lands or nearby lands that are
24 necessary and beneficial for trust purposes.

25 The third finding, the agreement does not

1 substantially interfere with the public rights of
2 navigation and fishing. The trust termination parcel is
3 currently filled. It is not covered or touching the water
4 and cannot be used for navigation and fishing at this time.

5 The fourth finding is that the monetary value of
6 lands or interest in the land received by the trust is equal
7 to or greater than the value of the land given up by the
8 trust. In order to value the public trust easement of the
9 trust termination parcel, the commission determines the
10 highest and best economic use of a trust consistent
11 development which would be a visitors serving hotel in this
12 instance. And we compared that with the highest and best
13 use for development which was not trust consistent, which
14 would be the residential development. And so the staff
15 determined the difference of those two values is the basis
16 for the value of the public trust easement and that the
17 value is found to be \$2.71 million.

18 Commission staff did not assign any monetary
19 value to the public trust easement on the public trust
20 easement parcel because the fee parcel of that would
21 likely be transferred to the City of Seal Beach and used
22 for the same type of public access and recreation
23 purposes that the Commission would want on the parcel.

24 The fifth finding is that the trust termination
25 easement parcel has been cut off from water access, is no

1 longer tide and submerge lands and is relatively useless
2 for trust purposes. The trust termination parcel has been
3 filled and reclaimed and does not currently provide water
4 access. It is physically separated from the existing San
5 Gabriel River since the 1980s. The trust termination
6 easement parcel has been fenced and has not provided any
7 public trust purposes. The only portion of the site
8 impressed with the public trust easement parcel is on the
9 north end of the site, which is the furthest away from the
10 Pacific Ocean and not adjacent to the river.

11 The portion of the site closest to the river and
12 ocean will be preserved as public spaces. For the past 30
13 years the 1.16 acre trust termination easement parcel has
14 remain relatively useless for trust purposes as evidenced
15 by a lack of trust consistent development interest.

16 The sixth finding is that mineral interest are
17 not being exchange as part of this agreement, and the
18 seventh finding is that the exchange is in the best interest
19 of the State. As discussed before, the Commission will
20 receive a slightly larger public trust easement parcel.
21 That parcel is adjacent to and in the San Gabriel River.
22 It will also be receiving a \$2.71 million for the Kapiloff
23 Land-Base Fund to purchase other interests in land. The
24 proposed agreement will ensure that through the acceptance
25 of public trust easement the public will have a permanent

1 right to use the portion of the San Gabriel River bike
2 trail which runs through the site and is currently private
3 ownership.

4 In conclusion, based on the information
5 presented here and in the calendar items, staff recommend
6 approval of the Propose Compromised Title Settlement Land
7 Exchange Agreement, and I'm available for any questions.

8 ACTING CHAIRPERSON GORDON: I was a little bit
9 confused on one issue. What was the value that was put on
10 the trust termination easement?

11 MS. COLSON: Yes, so what we -- the value was
12 \$2.71 million so, staff looked at the highest and best
13 economic use of the trust consistent development, which
14 would be the hotel, and we compared that with the highest
15 and best economic use of a non-trust consistent
16 development, which would be the residential development.
17 And we basically took the higher use, which was the
18 residential development, subtracted the hotel development,
19 and that's how we came to the value of that public trust
20 easement, because remember, Bay City Partners actually
21 owns the fee parcel of this whole property.

22 ACTING CHAIRPERSON GORDON: And the trust
23 easement that we are receiving, what's the value of that?

24 MS. COLSON: So staff didn't assign any monetary
25 value to that, because of the difficulty, we recognize

1 that the fee of that parcel would be transferred to the
2 City as part of their settlement with Bay City. So we
3 thought that the best thing to do was to not assign a
4 monetary value. Although, staff does believe that that
5 parcel does provide trust benefits, just hard to quantify
6 that economic --

7 ACTING CHAIRPERSON GORDON: Evaluation of what
8 the State is doing. So we got the one piece which
9 provides access to that bike path that we are not putting
10 a monetary value you on.

11 MS. COLSON: Right.

12 ACTING CHAIRPERSON GORDON: We've also then got
13 the 2.71 million for the Kapiloff Land which is the same for
14 same, and then we're also getting 6.4 acres of public open
15 space. Have we put a value on the open space that we're
16 getting?

17 MS. COLSON: So State Lands would be getting the
18 1.17-acre parcel, the easement parcel. The City of Seal
19 Beach will be getting the 6.4 acres from Bay City.

20 ACTING CHAIRPERSON GORDON: Do we have a value
21 on what that 6.4 would be worth?

22 MS. COLSON: You know, I don't have a value on
23 that?

24 ACTING CHAIRPERSON GORDON: Okay. All right.

25 Ms. Lucchesi?

1 EXECUTIVE OFFICER LUCCHESI: I would just add
2 that -- I believe that Bay City Partners representatives
3 are here as well as their may even be a representative
4 from City of Seal Beach that may be able to answer that
5 question for you. And if there were additional questions
6 by the Commission on the details of the appraisal, the
7 methodology used, some additional information on that, we
8 do have our Assistant Chief of Land Management Division,
9 Collin Conner here who can get into some more details on
10 that if the commission wishes to do so.

11 ACTING CHAIRPERSON GORDON: Not at this point,
12 but I think some of the opponents may raise that issue.

13 All right. We've got equal number of
14 approximately -- of supporters and opponents of this
15 project. What I propose to do is, I look to both of my
16 colleagues here, would be to do one supporter then one
17 opponent and keep going until we get to the end so that no
18 one feels like they are being over loaded.

19 So does that sound agreeable, Kevin?

20 Okay. That's what we're going to do then. What
21 I'd like to do then is start with Mr. Jim Basham, the
22 Director of Community Development for the City of Seal
23 Beach, and following him is Teresa Henry from the Coastal
24 Commission.

25 MR. BASHAM: Good afternoon, Commissioners. My

1 name is Jim Basham. I am the Community Development
2 Director for the City of Seal Beach. This project that's
3 before us this evening, the Land Exchange Agreement, is an
4 intricate part of the entire project that was entitled by
5 the City of Seal Beach approximately two years ago.

6 ACTING CHAIRPERSON GORDON: What was the vote of
7 your city counsel on that?

8 MR. BASHAM: I believe it was 5/0.

9 ACTING CHAIRPERSON GORDON: Thank you.

10 MR. BASHAM: The approval by the Commissioners
11 this afternoon will allow the city to continue to use the
12 public recreation area and continue to use it as a public
13 access. The approval of this agenda item will also allow
14 the city, along with the co-applicant, Bay City partners,
15 to move forward and present our completed application
16 project in its entirety to the Coastal Commission.

17 That concludes my presentation.

18 ACTING CHAIRPERSON GORDON: Thank you. If you
19 could just take a seat in the front row so that if we need
20 to you respond to any other questions. Okay.

21 MR. BASHAM: Absolutely.

22 ACTING COMMISSIONER SCHMIDT: Actually, one
23 question. I believe Coastal Commissioner will probably
24 speak on putting a hotel on this property. Can you speak
25 to the City doing an economic analysis of a hotel versus

1 housing?

2 MR. BASHAM: Well, the City did not conduct an
3 economic analysis. The actual developer, or Bay City
4 Partners, did complete a comprehensive analysis and that
5 was presented to the Coastal Commission staff. So the
6 applicant, Bay City Partners, can elaborate further in
7 regards to that matter. The City did many, many years
8 ago, approximately 30 years ago, did have the property
9 zoned for commercial for the purpose of a hotel, we even
10 went further and identified the property as a
11 redevelopment project site with the intentions of
12 hopefully entitling economic development opportunity
13 during the time period when redevelopment was active, and
14 for thirty years we could not get that property sold for
15 the purpose of a commercial use.

16 ACTING COMMISSION SCHMIDT: Thank you, sir.

17 MR. BASHAM: You're welcome.

18 ACTING COMMISSION SCHMIDT: I actually have one
19 question for Chief Counsel before I go on.

20 Mr. Meier, can you please let the commission
21 know what the status of the trust termination easement is
22 legally. It's my understanding that that title is not --
23 we don't have fee title, but it's not exactly clear what
24 interest the State Lands Commission has or at least it has
25 been challenged.

1 ACTING CHAIRPERSON GORDON: Ms. Lucchesi, you
2 can answer that as well.

3 EXECUTIVE OFFICER LUCCHESI: This site has a
4 long and complicated title history. There has been lots
5 of title settlements and land exchanges in the past on
6 this. As Kathryn mentioned that this, these were --
7 were the public trust easement that is the subject of this
8 item was in water ward of the Mexican Land Grant, the
9 Rancho Line. It was swamp and overflow lands. The fee
10 -- underling fee title was sold but the public trust
11 easement remained. At this point Commission staff
12 believes that there is a public trust easement interest in
13 that parcel. However, that is disputed by the Bay City
14 Partners at this time.

15 ACTING CHAIRPERSON GORDON: So in many ways this
16 settlement is a compromise?

17 EXECUTIVE OFFICER LUCCHESI: That's correct.

18 ACTING CHAIRPERSON GORDON: Okay. Thank you.

19 All right with that, Ms. Henry please. And
20 Ms. Henry, just one question, are you speaking for the
21 Coastal Commission or for the Staff of the Commission?

22 MS. HENRY: I am speaking on behalf of the staff
23 of the Coastal Commission.

24 ACTING CHAIRPERSON GORDON: Thank you. so the
25 Coastal Commission has not taken a vote on this yet?

1 MS. HENRY: No, very haven't.

2 ACTING CHAIRPERSON GORDON: Okay. Thank you.

3 MS. HENRY: Good afternoon. My name is Teresa
4 Henry. I'm the District Manager of the Coastal Commission
5 South Coast District Office, the office in which this site
6 is located. On yesterday we posted a comment letter to
7 the State Lands Commission's website, and I'm here to
8 answer any questions concerning the letter that we posted.
9 We also sent the letter to Bay City Partners as well as
10 the City of Seal Beach and indicating our opposition to
11 the removal of the public trust easement over the land.

12 We believe that the uses that are allowed under
13 the Coastal Act preferred uses visitors serving,
14 commercial recreational uses can be accomplished on this
15 site while retaining the public trust easement. So we
16 don't believe that the removal of the public trust
17 easement is necessary. Also this site, as has been noted,
18 has been designated for visitors serving use, namely, hotel
19 use for over 30 years. That's the use that's recognized
20 by the Coastal Commission. Recently the applicant has
21 indicated that this use is infeasible. I'm not sure the
22 staff agrees with that. Information has been submitted to
23 us. We disagree with that, however, that needs to go to
24 the commission.

25 But if it turns out that hotel use is

1 infeasible, we believe that there are other visitors
2 serving recreational commercial uses that should be
3 considered for this site. Those uses are consistent with
4 the public trust easement, as well as preferred uses under
5 the Coastal Act. Also the proposal is to contribute funds
6 to the Kapiloff Land Bank Fund to acquire, you know, tide
7 and submerge lands. We believe that the subject trust
8 termination easement parcel is such a parcel that could be
9 used for the purposes and therefore would remain on the
10 site.

11 So there is no need to terminate the easement on
12 the inland site. That inland site is in upland area that
13 could support the uses along the San Gabriel River. And,
14 therefore, that can be used, the Kapiloff Fund could be used
15 for that purpose.

16 We also note that if the money is paid into the
17 Kapiloff Fund, there's no agreement, no understanding that
18 those funds would be used in the Southern California, you
19 know, Orange County, L.A. County area where this project
20 is located. So the impacts are occurring but the
21 mitigation wouldn't necessarily be occurring in the
22 location where the impact is, where there's a loss of
23 potential visitors serving recreational use.

24 So again, we do not support the removal of the
25 public trust easement. However, if State Lands Commission

1 does remove the public trust easement, we hope that the
2 area can be retained or expanded on site to allow for a
3 visitors serving commercial recreational use on this
4 10.9-acre site.

5 There is no other site in the City of Seal Beach
6 that has both ocean front and river front location which
7 is a perfect location for visitors serving commercial and
8 recreational uses. And those are the comments that we've
9 given to the City over the years concerning this site, as
10 well as Bay City Partners. Thank you.

11 ACTING CHAIRPERSON GORDON: Here's the quandary
12 I have had from the beginning: and it's sort of bird in
13 the hand versus bird in the bush, under the deal as
14 proposed, the people of Seal Beach get 6.4 acres of
15 permanent open space. They also get an easement along the
16 river which connected the San Gabriel River bike path
17 permanently, versus a theory of the entire thing being --
18 having a hotel on the whole thing, and I've never quite
19 understood why a hotel is better than a park.

20 Could you tell me, from a Coastal's Commission
21 perspective, of why the Commission staff prefers a hotel
22 to a park? Hotels are private property. They don't have
23 to let anybody on their property, and I'm confused.

24 MS. HENRY: Under the Coastal Act, the priority
25 uses for land such as these -- the priority use is

1 visitors serving commercial and recreational uses. Park
2 use would be good, but on a 10.9-acre site, we think that
3 there should be more than just a park.

4 This site, the San Gabriel River bike trail goes
5 along this site. There are users of the bike trail would
6 enjoy commercial uses on the site including overnight
7 accommodations. We're saying that if a hotel use is not
8 appropriate for this site, it should be some other
9 visitors serving commercial use, or recreational use. A
10 park would have limited amenities and also limited income.
11 Whereas, a commercial use would allow the use and
12 enjoyment of those who are traveling along the bike path,
13 coming up from the beach, or make this a destination.

14 When you say a hotel is private, when the
15 Coastal Commission approves hotels, first of all, a lower
16 cost overnight accommodation is the preferred type of
17 hotel as oppose to market rate. If it is not a lower cost
18 overnight accommodation, then there would be a mitigation
19 fee required because of the lack of affordable overnight
20 accommodations. But also on the hotel we would expect
21 there to be amenities that would be open to the general
22 public and available to the general public. That's a
23 typical requirement of the Coastal Commission whenever a
24 hotel is approved.

25 ACTING CHAIRPERSON GORDON: I have one request

1 with regard to procedure. I've been around State
2 government for a long time. When staff at the Coastal
3 Commission takes a position, does the Commission itself
4 have to vote to authorized the staff to come to public
5 meetings, or does the staff decisions prior to the full
6 Commission voting? Do you understand my question?

7 MS. HENRY: Not quite. You said does the
8 Commission have to authorize the staff?

9 ACTING CHAIRPERSON GORDON: Yes.

10 MS. HENRY: No. We are speaking -- I am
11 speaking on behalf of the staff, not on behalf of the
12 Commission. If I were to speak on behalf of the
13 Commission, I would need authorization to do so.

14 ACTING CHAIRPERSON GORDON: Okay. All right.
15 Thank you.

16 EXECUTIVE OFFICER LUCCHESI: Turning it on and
17 off to get it to work. That's very similar, the Coastal
18 Commission is an independent State agency very similar to
19 the State Lands Commission, and so the staff operates in
20 very much the same way. The staff processes applications
21 and then makes recommendations. So it's not dissimilar to
22 the way the State Lands Commission staffs in taking
23 positions on certain issues, but very clear to say it's
24 the Commission staff, not the State Lands Commission until
25 you voted on a particular project or issue.

1 ACTING CHAIRPERSON GORDON: And just to be clear
2 for everybody in the audience, regardless of what we
3 determined to do today, the Coastal Commission permit,
4 which would be necessary for the homes for Bay City or
5 for future hotel or whatever possible use there would be,
6 would be determined by the Coastal Commission, not the
7 State Lands commission. We're here to determine whether
8 the land exchange meets requirements of our operating
9 statues.

10 All right. Thank you, Ms. Henry. You can also
11 stay close by if we have any questions for you please.
12 Maybe sit next to Mr. Basham if possible.

13 (Laughter)

14 Next I'd like Mr. Edward Sellett, project
15 manager for Bay City Partners to come forward, please.

16 MR. SELLETT: Good afternoon. My name is Ed
17 Sellett. I'm with Bay City partners. We request that you
18 approve the exchange agreement that's recommended by your
19 staff this afternoon. We became aware of this about two
20 and a half years ago, and because the property has a
21 complicated history from a title standpoint, we chose to
22 enter into discussions with your staff rather than to go
23 into any type of adversarial proceedings, even though we
24 do dispute the fact that the public trust easement exist.
25 Since the parcel with the claim of public trust easement

1 is cut off from the water, we believe it's of little value
2 for public trust purposes -- that's been explained by your
3 staff.

4 We have done numerous studies on the commercial
5 uses of the property that are allowed under the public
6 trust doctrine, and we found all of those to be
7 unfeasible. The city has decided that the open space used
8 permitted under the public trust doctrine are better
9 suited on other areas of our property which are not
10 clouded with the claim of a public trust deed easement.

11 We have agreed to donate those open space areas
12 to the city at no cost, in return for development approval
13 on the claim public trust area for residential uses.
14 We've work very cooperatively with the City of Seal Beach
15 in securing improve value of our project. If you approve
16 the exchange agreement and the Coastal approves the
17 project, the City will get permanent access to the rivers
18 and staging areas, the beach, permanent use of the San
19 Gabriel River trail, and 6.4 acres of public open space.

20 And we've leased two of those areas of the
21 property to the City already, the excess driveway to the
22 beach and the San Gabriel River trail are being leased to
23 the City for a dollar a year to allow continued public
24 access and use of the these valuable public amenities.

25 ACTING CHAIRPERSON GORDON: When do those leases

1 terminate, sir?

2 MR. SELLETT: Right into my next point. The
3 leases expire March 31, 2015, and while we're committed to
4 continue to provide these positive public benefits, your
5 action today will assure that they continue in perpetuity.
6 We did have a hearing at the Coastal Commission to request
7 that they act on the project before you, and they
8 suggested that they should come to the State Lands
9 Commission first.

10 So we're here today to seek your approval
11 agreement so that we can return to the Coastal Commission
12 for their action on the project. You also received a
13 letter mentioned by Ms. Henry from the Coastal staff
14 expressing their reservations on the agreement. We are
15 working with the coastal staff to address their concerns,
16 and we are optimistic that we can address them.

17 I want to point out that in our two hearings
18 before the Coastal Commission, we did receive many
19 favorable comments from the Commissioners about the
20 positive benefits of the project. Things such as we are
21 providing visitors serving public open space which is a
22 priority of the coastal act that we're preserving the
23 public access to the beach, and that we're ensuring the
24 continued use of the San Gabriel River trail. So we
25 remain confident that we'll gain Coastal Commission's

1 approval for the project. The exchange agreement meets
2 all of your legal requirements for an exchange, and if the
3 Coastal Commission approves the project, the public
4 interest is even better served as the public receives, as
5 I've stated before, a guarantee of permanent access to the
6 beach. Permanent use of the San Gabriel River Trail and
7 permanent use of 6.4-acre of public open space. So we
8 believe the agreement is in the best interest of all and
9 request your approval.

10 ACTING CHAIRPERSON GORDON: Thank you, sir.

11 Mr. Mel Nutter, please.

12 MR. NUTTER: Commissioners, I'm here on behalf
13 of Seal Beach for open space. I have a number of
14 comments. I'm not quite sure how the timing works here.

15 ACTING CHAIRPERSON GORDON: I should have
16 mentioned that in the beginning. My fault.

17 Essentially you get three minutes. When you see
18 the red light come on, you're done, but we can go ahead
19 and we'll see. Don't go too far over the three minutes.
20 We have a lot of people here today.

21 MR. NUTTER: You mean, if I seemed to be making
22 sense I may get --

23 ACTING CHAIRPERSON GORDON: No, in that case,
24 this is a State agency, and you don't get to make sense.
25 I'm sorry.

1 (laughter)

2 MR. NUTTER: Okay. Well, our position is that
3 you should not approve this agreement. We believe that
4 the Public Resources Code, Section 6307, which is recited
5 on Page 5 of your staff report. In fact, it does indicate
6 that one of the findings, and I believe your staff
7 indicated this that you need to make, is that the parcel
8 to be given up is relatively useless for public trust
9 purposes. We believe that the facts, in fact, do not
10 justify such a finding.

11 Now, your staff has asserted that the best and
12 highest use for this parcel consistent with the public
13 trust would be the development of a hotel, and then
14 compares that use with private residential development.
15 In short, it seems to us that your staff is suggesting
16 that you can sell an interest in the public trust to
17 assist a private developer increasing its profits. That's
18 not exactly what the code section seem to require.

19 The approach would, in our judgment, establish a
20 policy that would allow trade off in terms of economic
21 justification. Now, without providing with feasibility
22 studies that your staff report indicates your staff has,
23 and that's not part of the staff report we have, it's a
24 little difficult to know how to respond to that. But I can
25 make a few comments.

1 One is, that the Coastal Commission staff
2 actually requested additional financial information and
3 was told that that should and would be forthcoming once
4 the coastal development permit application was actually
5 filed, and so we're a bit at a lost about what it is that
6 you are considering and that the Coastal Commission was
7 having to deal with, but I believe there are a couple of
8 things that we can in fact indicate by the vast past
9 history here.

10 One is, that what we've got is a difference
11 between feasibility and profitability, and it appears to
12 us, based on somewhat inadequate information, that the
13 studies really are designed to justify profitability, not
14 feasibility going forward, rather than looking back at the
15 various historical circumstances that brought us here
16 today, and we think that's really an important
17 distinction.

18 In addition, if you look at Exhibit 1 attached
19 to the Chatton Browns and Carston's letter, which you
20 should have received yesterday, you will see that there is
21 an independent analysis suggesting at least a serious
22 question about the lack of feasibility for a hotel. But
23 as Ms. Henry indicated, the question is not simply whether
24 or not a hotel make sense, but whether or not this
25 particular parcel burdened by public trust, in fact, is

1 relatively useless for public trust purposes, and we don't
2 believe that that case has been made.

3 Although, in fact, the property owner may be
4 looking at a return of perhaps \$32 million if this goes
5 forward, we don't think that that's the kind of a trade
6 off that you're entitled to make. One other point as I
7 see my red light is on, and I'll try to respect that, is
8 that the bike path that we've had some reference to in
9 fact, was developed with public funds, and it's going to be
10 the case we're sure, that whether the City acquires it,
11 however it goes, that that bike path will, in fact,
12 remain.

13 And the notion that somehow or other, trading
14 land that can be used for public trust purposes for
15 submerged water is kind of an interesting notion,
16 particularly, since they are both Federal and State
17 responsibilities and burdens that go with that, and I've
18 see that I've ran out of time.

19 ACTING CHAIRPERSON GORDON: Mr. Basham, could
20 you come forward for a second, please. Over and over
21 again we keep hearing that a hotel visitors services is a
22 better use of the property. Can you give me a little
23 background on the City's attempt or lack of attempts to find
24 a hotel or motel to be developed on this site?

25 MR. BASHAM: So the parcel or the project size

1 was, approximately 30 years ago, identified for commercial
2 purposes with full intentions of meeting the Coastal
3 Commission's obligations pursuant to the Coastal Act in
4 providing a visitors serving opportunity. So at that
5 time, 30 years ago, the forefathers that were in charge of
6 at that time they have conducted whatever was necessary,
7 creating the performer in order to assess the property and
8 to hopefully attract a hotel opportunity.

9 I don't think that occurred, and in that regard
10 they moved forward and also designated that property for
11 redevelopment purposes. So creating the property for
12 redevelopment also entices the opportunity to create an
13 incentive or economic development opportunity where you
14 share in different cost.

15 That also was promoted under that process, under
16 that zoning opportunity if nothing occurred. So basically
17 the property has sat dormant, vacant for approximately
18 30 years with no redevelopment opportunities. So when you
19 have that designation and the property remains
20 undeveloped, then planning departments across the state,
21 for that matter, reassess the opportunity as to what can
22 be developed upon the site.

23 So we can't allow a parcel to remain, if you
24 will, substandard by not creating any kind of economic
25 opportunity. I think establishing the opportunity where

1 we are, basically, giving, if you will, recreational
2 purpose. I think having six and a half acres of recreational
3 opportunity is a huge opportunity for the city. It gives
4 us the opportunity to explore what we don't currently
5 have. There's many recreation opportunities that we can
6 include there, kayaking, for extending and promoting the
7 continue use of the recreation opportunity for the trail.

8 I mean, the trail is a huge popular used
9 activity. It starts from the base of the San Gabriel
10 Mountains, and it terminates basically in Seal Beach. So
11 having that opportunity with 6 acres that's available to
12 us that we can utilize and partner in order to create this
13 additional amenity is a huge opportunity for us.

14 I've stated in meetings with Coastal staff that
15 I am more than willing to work with them and locating
16 additional parcels within our city that we believe that
17 can be rezoned for meeting their opportunities of what
18 their goal seems to be in the Coastal Act.

19 So this is a great opportunity for us. I think
20 that it works for the city, we've approved it. We've
21 attest to that, we've continued to recommend approval and
22 strongly will support that when it goes to the Coastal
23 Commission.

24 ACTING CHAIRPERSON GORDON: Very good. Thank
25 you.

1 EXECUTIVE OFFICER LUCCHESI: Chair Gordon, I
2 would like to just make a couple of clarifications based
3 on the last speaker that I hope would be helpful. There
4 was a comment made about comparing the residential use
5 with the visitors serving highest and best use. I want to
6 be very specific about why that was done, and that was
7 done purely to assess the monetary value, the appraised
8 value of a public trust easement. As you can likely
9 understand, valuing a public trust easement is not done
10 every day, and it's not the simplest thing to do.

11 It's not like valuing the fee simple title of a
12 vacant parcel, and so, in order to accurately value what
13 that public trust easement is, we took the 1.1-acre parcel
14 with the public trust easement use restrictions on it, and
15 assigned the highest and best use. That would be a visitors
16 serving hotel use. Then we took the value or assessed the
17 value of that same parcel without the public trust use
18 restriction on it, and gave it the highest and best use
19 which would be residential. The difference between those
20 two, we believe, is the value of the trust easement, and
21 that is essentially the use restriction imposed by the
22 public trust.

23 So I just wanted to clarify that, that that was
24 the issue about residential use versus visitors serving in
25 terms of a monetary value. That's why we were approaching

1 evaluation with that methodology.

2 Second, in relation to the relatively useless
3 test, or findings -- excuse me -- relatively useless for
4 public trust purposes, it doesn't say completely useless
5 for public trust purpose. It's relatively useless, and I
6 believe our staff report and our staff presentation
7 sufficiently makes a case that the parcel, that the public
8 trust is receiving the easement parcel plus the 2.71
9 deposit in the Kapiloff for future better-suited
10 acquisitions for public trust purposes is sufficient
11 evidence to allow the commission to make that finding.

12 But in addition to that, there have been
13 feasibility studies done on this entire site about
14 visitors-serving hotel use. One was completed or conducted
15 by a consultant hired by the developers, and then one was
16 also, I believe, conducted by one of the opponent to see
17 this development. The City of Seal Beach, I believe, also
18 hired an independent consultant to review, a peer review
19 of the Bay City Partners feasibility studies.

20 Our MIA licensed appraiser reviewed all three
21 assessments, and he believes that the feasibility study
22 conducted by the development as peer reviewed and
23 confirmed by the Seal Beach is based valid assumptions and
24 makes reasonable valid conclusions. And finally on the
25 issue of the Coastal Commission versus the State Lands

1 Commission, I just -- the Chair had referenced this
2 earlier, but I just want to make it very crystal clear
3 that the Coastal Commission is unable to file the
4 application, that is, deem the application for this
5 development complete until the issue of the public trust
6 easement is resolved.

7 And I also want to make it clear that as a land
8 owning interest is a property -- excuse me. A land-owning
9 agency, a property-interest own agency, the State Lands
10 Commission is considering a land exchange agreement. The
11 Coastal Commission as a regulatory body is going to be
12 reviewing the project, the development, as a whole and
13 considering whether to issue a permit based on that. They
14 are two very distinct and different jurisdictional
15 authorities. Thank you.

16 ACTING CHAIRPERSON GORDON: Any questions?

17 Mr. Doug Carstens, please.

18 MR. CARSTENS: Good afternoon, Honorable
19 Chairman and Honorable Commissioners. My name is Doug
20 Carstens. I'm an attorney with Chatten-Brown and
21 Carstens, and we did submit a letter. I understand it
22 wasn't received, so I'd like to hand it across the podium,
23 and I'll speak from a copy of it.

24 We thought we e-mailed it yesterday to the
25 e-mail on the letter, but let me just summarize, if I may,

1 three other points having to do with the California
2 Environmental Quality Act. I think Mr. Mel Nutter already
3 covered the questions about Public Resources Code, Section
4 6307 and the Land Exchange.

5 We fully agree with those. We would like to
6 summarize three issues with noncompliance with the
7 California Environmental Quality Act. One is that the use
8 of the statutory exceptions from CEQA, is how I'll
9 abbreviate it, is actually improper. There is no title
10 and boundary issues or there's no dispute here that is
11 actually based upon evidence.

12 There's assertions of a dispute to the title,
13 but there's no evidence that contradict the clear
14 establishment of public trust lands. So this cannot be
15 exempted from the California Environmental Quality Act on
16 that grounds.

17 ACTING CHAIRPERSON GORDON: Let me stop you at
18 one point. I'll give you extra time.

19 Could one of either Mr. Rusconi or one of
20 counsel please address that issue.

21 DEPUTY ATTORNEY GENERAL RUSCONI: The position
22 that the commission has taken in other litigation is that
23 the statutory exemption does not use the word "dispute."
24 It uses settlement of title and boundary problems. So the
25 first thing is we don't believe that the dispute is

1 necessary. However, in this case, reviewing the status
2 report, I think it's clear that there is a dispute there.
3 So either way the exemption use is proper.

4 ACTING CHAIRPERSON GORDON: Thank you,
5 Mr. Rusconi.

6 EXECUTIVE OFFICER LUCCHESI: I would just add,
7 and I won't take away from your time, I'm sorry. I would
8 just add that the commission staff also developed an
9 addendum to the EIR to assess the environmental impact of
10 the Land Exchange Agreement itself, as well as you using
11 the statutory exemptions.

12 ACTING CHAIRPERSON GORDON: Okay. Thank you.

13 MR. CARSTENS: Well, I'm not sure if I'm worried
14 about time yet. I do appreciate it if the chairman give
15 me time to finish.

16 ACTING CHAIRPERSON GORDON: Go ahead. Keep
17 going.

18 MR. CARSTENS: Thank you. The question about
19 the Land Exchange suitability is at issue in a case called
20 Defend Our Water Front versus the State Lands Commission,
21 decided up in San Francisco against the Commission. It's
22 up on appeal now, as far as I understand it. It's an open
23 question, I think, and I think, our view, it is not
24 exempt.

25 The mention of the addendum bringing me to my

1 second point which is an addendum to an EIR is normally
2 just for technical issues, merely changing, sort of
3 typographical errors, for instance within an EIR. Here
4 there's a very significant change that is trying to be
5 amended on to this EIR and that is an elimination of the
6 public trust.

7 This was not dealt with by the City in its EIR,
8 so it's improper to actually try to tack it on to the EIR
9 by way of addendum. There are recreational impacts.
10 There are elimination of public trust resources which are
11 irreversible commitments of State resources that are
12 significant impacts that cannot be dealt with by way of
13 addendum. My last point with the time remaining is that
14 because this Commission has to use this environmental
15 document to override significant impacts, and there are
16 significant impacts that have been identified by the City
17 in terms of unavoidable esthetic impacts, this Commission
18 have to adopt findings overwriting those impacts, as well
19 as the City did. This is required by CEQA, Section 15096
20 of the guidelines, Subdivision H, and it requires a
21 responsible agency to make its own findings. There are
22 not in the staff report, they haven't been presented to
23 you. We assert that they cannot be made. They are
24 feasible alternatives that prevent a finding that the
25 impacts of these projects should be overrridden.

1 I appreciate the time, and again, thank you for
2 accepting the letter.

3 ACTING CHAIRPERSON GORDON: Thank you.

4 Mr. Michael Bronfenbrenner. I'm sorry if I --

5 MR. BRONFENBRENNER: Got it?

6 ACTING CHAIRPERSON GORDON: Got it. There we
7 go.

8 MR. BRONFENBRENNER: Good morning,
9 Commissioners. My name is Michael Bronfenbrenner. I live
10 on Sixth Street in Seal Beach. I've been a Seal Beach
11 residence for 21 years. I have three daughters who grew
12 up in Seal Beach. We use that area virtually every day,
13 my family does. We bike, we -- I've been an avid wind
14 surf since 1975, and in Seal Beach that's the only place
15 where you can put in your wind surf, because the rest of
16 the beach is designated for the surfs and for the
17 swimmers.

18 I think as a family man and as a father of three
19 daughters, I think it's critical that we have guaranteed
20 access to that. And I'm asking you to approve this,
21 because I don't want to lose that, and my daughters and I
22 we go down there. We look at the sunset. We bike on the
23 bike path, and I think it's really critical that this
24 happen, and I ask my daughters, "What do you think about a
25 hotel," and they go, "Dad, come on."

1 We have several new hotels in Seal Beach. We
2 don't need anymore. We have an Hampton Inn now. We have
3 an Ayres Hotel. We don't need another hotel.

4 ACTING CHAIRPERSON GORDON: How far are the
5 hotels from this site, sir?

6 MR. BRONFENBRENNER: About a mile. And I think
7 that my daughters would love to keep that access to that
8 land, and I'm asking you to approve this exchange
9 agreement so that remains in place, and we are very
10 concerned about that. Thank you.

11 ACTING CHAIRPERSON GORDON: Thank you very much,
12 sir.

13 Ms. Nancy Kredell.

14 And I'm going to -- actually we have a few more
15 opponents and supporters so after Ms. Kredell, I'm going
16 to go with Ms. Carla Watson.

17 MS. KREDELL: Mr. Gordon, have you been below
18 L.A. County yet?

19 ACTING CHAIRPERSON GORDON: Yes, I have.

20 MS. KREDELL: We spoke with you on a Skype, and
21 you said that hadn't been below L.A. County line yet. So
22 I was hoping that you've seen our property. The reason
23 that we are opposed to this, we aren't given the same
24 property that you were promised before. We were promised
25 70/30, and this is our area that we want, and this is the

1 difference of one to the other. We were promised
2 70 percent. That's what the specific plan was, the reason
3 we want a hotel was to pay for a beautiful park for here,
4 and they want a passive park, we want an active park. The
5 Coastal Conservancy gave us \$50,000, and we have a
6 beautiful area that they have designed that they gave
7 us -- the people that worked on it. And it was a plan for
8 Seal Beach.

9 We had 800 people there. We had tents, we had
10 people from Leisure World, and because we had Leisure
11 World, we couldn't tack on taxes for our community where
12 we could pay for them, but Leisure World couldn't. They
13 are an older area.

14 ACTING CHAIRPERSON GORDON: Who did the Coastal
15 Conservancy dedicate the money to? Is it the city? Who
16 received that \$50,000?

17 MS. KREDELL: That \$50,000 was -- Peter Brand
18 was the one that came in and did it. And he's in pictures
19 in here, and it was a beautiful program, and the city was
20 part of it, and we have Pacific Park Society, and we
21 wanted the 7 acres -- not six that they were going to give
22 us -- and they're not even really giving us six. And the
23 1 acre -- 1.2-acre park, would, for them, will be
24 \$11 million houses, not it 2.7. I don't know where you
25 got that.

1 But 11 million is what they will make on this
2 land that you're going to allow them to swap, and we do
3 not want you to swap it. And the property that we show --
4 and we have a developer that will do this, and this is
5 where the hotel -- and it's -- if you've been to Avila
6 Beach, they are two-story hotels. It will be low, it will
7 not be an expensive fancy place, then that will allow all
8 of this development because of this. That's why we have
9 the deal. Otherwise, we would have wanted all park.

10 We knew we couldn't afford it. So this is the
11 trade off. The little tiny small -- and we'll have a
12 restaurant, and we'll have meeting facilities for the
13 community. We aren't one percent, we're the other part,
14 I'm a retired teacher, 38 years in Los Angeles, 10 years
15 now subbing. We're not the rich, but we want something
16 for all of California where we can all enjoy it, and this
17 can be really spectacular, not the same.

18 ACTING CHAIRPERSON GORDON: Were you given a
19 hearing of the City Counsel, Ms. Kredell?

20 MS. KREDELL: Oh, I was on the advisory
21 committee, and all of the different advisory committees
22 voted to turn this down, but then the Planning Commission
23 who is under the thumb of the City Counsel and before
24 we've always had, in my opinion, counsel people with
25 integrity that follow the specific plan.

1 But this new group was put it, special. And one
2 old fellow was on the commission -- on the city council, ran
3 on the idea of protecting the DWP property, but he's very
4 old now, so it's different. But things are not the way --
5 and it's sad, but this land is worth 11 million that you're
6 talking about swapping for 2.7, and it's just not fair.
7 It's sad, and it is not equal value, and it does not
8 enhance the use of our recreation, and our little
9 1.2 acres does touch the bike path, and if nothing else,
10 leave it for a parking lot.

11 The people in the whole Southern California can
12 come and enjoy the beach that way, they are not going to
13 enjoy the beach with 32 homes. Last November when they
14 went to the Coastal Commission, it was already sold on
15 contingent that it would be -- get permits for 32 million.

16 ACTING CHAIRPERSON GORDON: Thank you, ma'am.

17 Ms. Watson, followed by Eric Lenore.

18 MS. WATSON: Good afternoon. My name is Carla
19 Watson, and I have lived in Seal Beach for 50 years, and
20 first of all, I want to thank you for your service to the
21 State, and I'm a strong supporter of the Coastal Act, and
22 as a 50-year resident of Seal Beach, I stand before you as
23 one of the original speakers and members of the San
24 Gabriel Park Society who lobby to get this parcel on high
25 priority list of the Coastal Commission, and as Nancy said

1 before me, we have many workshops and ideas and it came to
2 a compromise. Some of us wanted it to be purchased

3 Unfortunately, a Coastal Commission was buying
4 most of the good parcels up in San Francisco. Some people
5 told me that Coastal Commission thought that Southern
6 California was already spoiled. This is one of the last
7 areas along the coast.

8 It's where the river meets the sea. It is
9 historical, and it's an historical place. It's a special
10 property as you already know. You've seen about the
11 bicycle path. I have to take issue with the gentleman who
12 talked about closing access, because actuality, that's
13 kind of what led us to where we are today. What changed
14 our city's support for this concept?

15 Well, what happened is that Bay City Properties
16 was allowed to purchase this property for \$4.6 million.
17 We didn't have money. Remember Proposition 13 and
18 remember all the cities were in a bind, and so we couldn't
19 come up with the money to purchase the land. But they
20 bought it as zoned visitors serving.

21 Did they really honestly try, or were they
22 holding out just waiting for the opportunity -- the
23 opportunity to threaten the city with closure to the
24 access to the beach. That's who we're dealing with. They
25 threatened that, our City went to trial. I think we had

1 very inept city counsel. A person who was a city attorney
2 is pretty notorious. He didn't like to go to court, and
3 what happened then is the city -- people became afraid
4 because it was rumored out there that this group would
5 bleed our city dry. Okay.

6 The developers decided they would close the
7 access to the beach, which led the city to court. After
8 hearing that these folks would approximate bleed the city
9 dry and realizing that they could not get the grant for
10 the bike path improvement, the city caved and signed the
11 agreement changing the zoning for these folks.

12 Changing the zoning when people buy property for
13 \$4.6 million, and then they are going to be able to sell
14 it for 32 million in a small beach town, and Ed Humes, the
15 famous author said, "It is one of the last great beach
16 towns." If you haven't been there, Mr. Gordon, one of the
17 last great beach towns. We're not a gentrified city.
18 We're a city that welcomes all. Our pier houses people who
19 fish on the pier. Okay, I'll take one minute from the
20 other person if that's okay.

21 It never should have happened. The city should
22 have been offered the right ways first since this is what
23 allowed the developers to belay this agreement. With
24 every land you stay in, there is a torch to be passed.
25 That is your job and the Coastal Commission. When a city

1 doesn't do the right job -- all of the commissions, except
2 for the planning commission, voted against this, and it is
3 your job then when cities haven't done the rights for
4 their city, whether it is Bell or Seal Beach or whatever,
5 that you step in and do the right thing for the people of
6 Seal Beach. The torch is passed to you. I'm here on
7 behalf of a good friend. His name is Jim Caviola. He's
8 here because he's in threat of his life.

9 ACTING CHAIRPERSON GORDON: Ma'am, your time is
10 over.

11 MS. WATSON: Okay.

12 MR. KREDELL: She can have my time.

13 ACTING CHAIRPERSON GORDON: And what is your
14 name, sir?

15 MR. KREDELL: Kredell, Ron Kredell.

16 ACTING CHAIRPERSON GORDON: All right. Take two
17 more.

18 MS. WATSON: Okay. I'm here on behalf of my
19 friend, Jim Caviola, who is in fear of his life. Less
20 than two months ago his car was blasted by shotgun blast.
21 No other car in the vicinity was harmed. This is not
22 new. My good friend, Glen Forsythe, who worked hard for
23 the Bolsa Chica and stopped the Mullet [sic] development
24 in town, was sent a bullet in the mail.

25 When high stakes are at case, people, fringe

1 people may get excited and do something like this. This
2 is not unusual for Seal Beach, but I know that you will
3 take this upon consideration that this is one of the last
4 views along the coast. Thank you.

5 ACTING CHAIRPERSON GORDON: Thank you very much.

6 I just want to reiterate what I've said earlier
7 when Ms. Lucchesi pointed out, the Coastal Development
8 Permit will be decided by the Coastal Commission. That is
9 not the job of the State Lands Commission. We are looking
10 -- ma'am, your time is up. I'm sorry.

11 MS. WATSON: Can I just say one thing?

12 ACTING CHAIRPERSON GORDON: One thing.

13 MS. WATSON: It's very important though, your
14 decision is going to have a great impact upon the Coastal
15 Commission?

16 ACTING CHAIRPERSON GORDON: Thank you. We know
17 that. Thank you.

18 It is the Coastal Commission that determines
19 what is appropriate development in the coastal zone, not
20 the State Lands Commission. We have a trust termination
21 easement of some value. What we are determining today is
22 whether the exchange of that is of equal value based on
23 state law. We are not determining what is appropriate
24 development in the coastal zone. That will be done at a
25 later date by the Coastal Commission.

1 Eric Lenore, please.

2 MR. LENORE: Thank you, Mr. Gordon. I will
3 stick to your suggestion on following the economics and
4 the issues at hand. I'm a financial professional. I was
5 also born and raised in Seal Beach, still have property in
6 Seal Beach with the family. The one thing I don't
7 understand is we're missing the economics of the your
8 issue here with State Lands is the public trust easement
9 area being relinquished is not front the water. It is
10 obviously of less value not fronting the water to the
11 public then a large frontal area with an additional
12 supplementary cash donation in pure economics, I just
13 don't understand. This is a real no-brainer. If this is
14 the only issue at hand that you are facing.

15 A riverfront public trust easement is much more
16 valuable than the easement on the land has no access to
17 the water or the bicycle trail. I don't get it. I think
18 it's an obvious choice, and I'll leave you with that.

19 ACTING CHAIRPERSON GORDON: Mr. Edward Hirsch,
20 please.

21 MR. HIRSCH: I'd like to pass and give my time
22 to another opposition speaker.

23 ACTING CHAIRPERSON GORDON: Okay. And who would
24 that be?

25 The only opposition speaker is Ms. Louis Dubos.

1 All right. So you're giving your three minutes
2 to Ms. Dubos?

3 All right. Ms. Dubose, you have six minutes.

4 MS. DUBOSE: Okay. I'm just going to talk about
5 the property. In November of last year this property
6 apparently was sold contingent on passage to the Coastal
7 Commission for 32 million. That's as-is, without homes or
8 infrastructure. You can't compare that property -- no
9 property in Seal Beach is sold -- a 25 by 800 to -- 100 is
10 sold for, like, 800 minimum.

11 And you can't compare that to selling the
12 bike -- to exchanging it with the bike path. That's like
13 a bike path, like, who's going to want your sidewalk? You
14 can't build on it -- on the bike path.

15 ACTING CHAIRPERSON GORDON: Is that it? That's
16 your six minutes? Okay.

17 All right. Mr. Ray Fortner, please.

18 Mr. Hirsch, would you like your three minutes
19 back? She didn't come close to using her three, let
20 alone, your three.

21 Let's go with Mr. Fortner first, and then
22 Mr. Hirsch you can come back. Okay.

23 EXECUTIVE OFFICER LUCCHESI: I do just want
24 to -- excuse me one second. Just point out that
25 Commission staff does not necessarily disagree with what

1 the last speaker said, and that is why we did not assign a
2 monetary value to the public trust easement parcel.

3 MR. FORTNER: Good afternoon, Mr. Chair Members
4 of the Commission. My name is Ray Fortner. I'm a
5 longtime residence of Seal Beach, and I'm here to urge you
6 to approve this agreement based on the findings that
7 presented to you by your staff. And it seems right for
8 approval, and it is the only way that this project will
9 have some chance at the hearing that you've alluded to
10 before the Coastal Commission which is where the substance
11 of the project will be determined.

12 My wife and I have lived in Seal Beach for over
13 40 years, raised my daughters there. My wife has opened a
14 business in Old Town Seal Beach and still maintains it,
15 and all those years as we've driven through this little
16 corner of Old Town, which is a gateway in and out of that
17 part of town.

18 We've driven west on Ocean Avenue or east over
19 the Marina Bridge, south coming down First Street to see a
20 fallow large vacant unused, frankly, ugly parcel. It
21 would be delightful to have something there, and that's
22 why we hope that you'll give us a chance to get to the
23 Coastal Commission, and where its approval will be sought.
24 There are obvious benefits to all of us in the city, those
25 who speak for -- in terms of "we" as if they are speaking

1 for the City of Seal Beach, who are residence of Seal
2 Beach, do not speak for anywhere near a majority.

3 This will be a delightful new gateway into the
4 city, single-family homes, single-story homes, and a large
5 open space parcel as oppose to the great wall of the San
6 Gabriel River, a two story hotel, which is infeasible in
7 any event, but certainly would not be an attractive
8 entrance or exit to the city. We urge your approval, and
9 thank you very much.

10 ACTING CHAIRPERSON GORDON: Thank you, Mr.
11 Fortner.

12 Mr. Hirsch would you like to speak?

13 MR. EDWARD HIRCH: Commissioner, this is Edward
14 Hirsch speaking in favor for the opposition. The local
15 newspaper, The Sun, did a survey, and I understand that
16 69 percent of the citizens of this city were in favor of
17 the hotel, and the reason is this won't be a gateway, a
18 wonderful gateway. This will be a wall to use by the
19 citizens enjoying of the inland areas. It will make it
20 exclusively a user for the citizen of Seattle -- excuse
21 me. I mean Seal Beach, and that's -- sorry, I'm from
22 Seattle -- and the reason is that there are no other
23 public amenities at that location in Seal Beach, other
24 than a small restaurant and a restroom. When they are
25 residential properties only there, there will be nothing

1 for citizen who come inland on the bike trail to use.

2 And I think that this is left out of the
3 evaluation analysis. It's about a half mile across the
4 city to Main Street, which basically bifurcate the city
5 where one could have amenities otherwise, you have to look
6 at over a mile inland, about a mile inland to things like
7 the Whole Foods, otherwise, you're just left at the end,
8 corner of a city, at the dead end of a bike trail with
9 nothing there, I think that's left out of the
10 consideration of the value.

11 ACTING CHAIRPERSON GORDON: Thank you, sir.

12 Mr. Richard Barbazette, please.

13 And the last speaker will be Kathleen Keane.

14 MR. BARBAZETTE: Thank you, Commissioners.

15 Thank you for your service. My name is Richard
16 Barbazette. I'm a 45-year resident of Seal Beach. My
17 wife and I have raised two children in this seaside town,
18 and I stand in support of the exchange agreement for two
19 reasons. One, you're going to get \$2.7 million to use for
20 other worthwhile projects in this state, and then the bike
21 path, to me, is the main thing, getting guaranteed access
22 to that. I attended the Coastal Commission hearing and
23 I'm not going to litigate that, but one of the
24 commissioners mentioned that he was raised in the San
25 Gabriel Valleys Foothill, and he said, you know, the idea

1 of being able to bike down there on the bike path, go to
2 an open 6-acre park, be able to have tables and
3 conveniences out there and be able to go back, would have
4 been, when he was young, just a dream come true.

5 And the idea of limiting that and it's not just
6 for Seal Beach, it's really for the whole Southern
7 California area to have that access guarantee and to have
8 an area that, you know, I share with you Commissioner
9 Gordon, the idea of a private low-fee hotel or motel
10 instead of public maintained park with all the amenities,
11 it's just not a contest, and city counsel in a 5/0 vote, I
12 think, represented the feelings of the people of Seal
13 Beach. Thank you.

14 ACTING CHAIRPERSON GORDON: Thank you, sir.
15 Ms. Keane.

16 MS. KEANE: Thank you, Commissioners. My name
17 is Kathleen Keane. I live on A Street in Seal Beach. I
18 ask that you approve the exchange agreement so the City of
19 Seal Beach and Bay City Partners Project can be approved
20 by the Coastal Commission. I've had to look at this ugly
21 chained fence surrounding the property for years. It's
22 time to remove the fence and create a usable open space
23 for the public. This exchange agreement will allow this
24 to happen. The public trust easement on the property not
25 fronting the river is less useful to the public than all

1 the riverfront open space that we will get with the
2 project approve.

3 This cannot occur without the exchange
4 agreement. Please approve the exchange agreement. All of
5 Seal Beach would be grateful. I grew up my whole life in
6 Seal Beach, and I walked around that barrier fence. My
7 kids have walked around it all their lives, but I would
8 like my grandkids to enjoy that property. Please bring
9 the fence down, and it's time to move on. Thank you.

10 ACTING CHAIRPERSON GORDON: Thank you, ma'am.

11 Is there anyone else in the audience who has not
12 spoken and would like to speak on this issue?

13 ACTING COMMISSIONER ORTEGA: I appreciate all of
14 the folks that have come here today. I think that a
15 couple of the issues that are raised are things that will
16 be considered by the Coastal Commission as it's been
17 stated. Our action will come first, but the project still
18 has to go before the Coastal Commission, I think, as it
19 relates to the calculation of the value of the transfer, I
20 think the staff has done a great job of explaining how
21 that was done.

22 They've used what resources were available to
23 make the best calculation to put before us. I think some
24 of the issues about whether visitors serving area is more
25 compelling. I think, you know, it's hard to imagine if a

1 hotel wasn't feasible or sought by someone in the past 30
2 years when development and tourism and things were
3 booming. And during booming time it's hard to imagine
4 that that's going to be feasible going forward. So I
5 think given all of the testimony we've heard today, I'm in
6 support of the staff's recommendation. I'm happy to make
7 a motion to move approval of the staff's recommendation.

8 ACTING COMMISSION SCHMIDT: Just add the fact
9 that, you know, I represent somebody that comes from a
10 local government background and very progressive area and
11 5/0 was never a vote, never achieved that I'm aware of
12 when it came to a development project. And I think that
13 speaks volume even though statistics have been brought up
14 that 60 percent -- well, a hundred percent of your
15 electives have voted for a project like that. But
16 regardless, we're here to determine the value of an
17 easement, not the entire property or the profits that
18 somebody will make but the value of the easement. And I
19 believe staff has done an excellent job in identifying a
20 means to do such. So I second that motion.

21 ACTING CHAIRPERSON GORDON: Okay. From the
22 perspective of the controller, California law requires
23 cities to make land use decision that are in the coastal
24 zone, and they need to be compliant with the Coastal Act.
25 The Coastal Commission will determine eventually whether

1 this action is consistent with the Coastal Act. That
2 said, to reiterate what my colleague just said, this issue
3 was well aired out at the local level.

4 The City Counsel of Seal Beach voted five to
5 nothing. We do live in a democracy. If people are
6 unhappy with how the people voted, you have an opportunity
7 at the next election to vote those people out of office.
8 That's how things work. It doesn't strike me that it is
9 the job of the Coastal Commission either to determine what
10 is acceptable development of the coastal zone that we
11 defer to our sister agency.

12 And second, it's not our job to override local
13 government land use decision. That's a place where we
14 just -- we open up a can of worms. It is just not going
15 to end well. So I also, on behalf of the controller,
16 would support the motion. Though let me make one
17 final statement which is, the attorney general
18 explained this earlier, based on the rules of the State
19 Lands Commission since there are no -- we are all
20 delegates here. Only two of us can vote today. One of us
21 between the Lieutenant Governor and the controller, only
22 one of us will vote.

23 So based on what my two colleagues said, we've
24 got a motion, and a second let me call the vote, please.

25 All those in favor?

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(Ayes.)

ACTING CHAIRPERSON GORDON: The motion passes two to nothing. Thank you very much. Thank all of you for coming today on both sides. Thank you.

With that, we'd like to move to Item 109 for the staff presentation consider supplemental information involving an existing irrevocable permit issued by Port of Los Angeles to Rancho LBG holdings. Thank you.

You get to come back. You have the two easy ones today.

MS. COLSON: I know.

ACTING CHAIRPERSON GORDON: Lucky you.

MS. COLSON: I know. All right. So Calendar Item 109 involved Supplemental Information related to the existing revocable permit issued by the Port of Los Angeles to Rancho LPG Holdings LLC for the use of a railroad spur within the Port of Los Angeles. The Commission considered this issue, the issue of the revocable permit for the railroad spur at the June 19th meeting. Rancho's liquified petroleum gas storage facility is located on private property adjacent to land that is owned by the Port of Los Angeles.

Currently, its only connection to the Port of Los Angeles is that it has a revocable permit for railroad spur that connects to the Pacific Harbor Line which is a

1 local rail service that services customers within the
2 area. As discussed in the June meeting, the City of
3 Los Angeles acting through the Harbor Commissioners
4 manages the port lands and trust pursuant to Chapter 656,
5 Statues 1911, and Chapter 651, Statues 1929. The land
6 which the railroad spur sits on was acquired by the Port
7 in 1994 and is held as an asset of the trust.

8 In June, Commission staff was directed to find
9 out more information about three subjects and to report
10 back to the Commissioners. The first item was whether
11 Rancho LPG's parent company, Plains All American Pipeline,
12 has liability insurance to adequately cover all of its
13 subsidiaries including Rancho LPG. Staff received a
14 letter from Lockton Company LLC stating that Plains
15 carried insurance covering 500 million to cover third
16 parties claim. Staff also received a chart that summarize
17 the liability insurance, and that's attached to the
18 calendar item as Exhibit C, but Plains All American
19 declined to provide staff or the Attorney General's Office
20 with a copy of the actual liability insurance policy.

21 The second item requested was an organizational
22 chart of Plains in order to determine the liability for
23 Plains if substantial damage to the Rancho LPG storage
24 facility were to occur. Rancho LPG, which owns the
25 facility, is a subsidiary of Plains and is a publicly

1 traded Master Limited Partnership headquartered in
2 Houston.

3 And the org chart that staff was sent is attached
4 as Exhibit D to the staff report. I'm sorry, I don't have
5 a PowerPoint presentation for this one. The final item
6 that staff was to report back on is the result of the EPA
7 review of the Rancho LPG facility and its compliance with
8 the EPA's risk management plan. Based on investigations
9 conducted in April 2010 and January 2011, the EPA sent
10 Rancho a notification of potential enforcement action
11 letter in March 2013, and it detailed six anticipated
12 allegations.

13 On June 24, 2014, the EPA announced that Rancho
14 and the EPA have entered into a consent agreement and final
15 order. That order required that Rancho paid approximately
16 \$260,000 in fines. Rancho has maintain that it vigorously
17 disputes the EPA's claims, but both Rancho and the EPA
18 agree that the facility is currently in full compliance
19 with the EPA's risk management program.

20 There's one other item I want to mention which
21 is that a Commission staffer attended the September 10th
22 meeting that was organized by Congressman Waxman's
23 district staff. There were representatives present from
24 the Department of Homeland Security, and the USEPA. The
25 federal officials gave an overview of the federal chemical

1 security and safety programs and answered public
2 questions.

3 The federal officials reiterated at that meeting
4 that Rancho facilities were in compliance with all the
5 federal laws and regulations at that time.

6 The staff recommendation for this item is that
7 the Commission direct staff to continue working with the
8 Port of Los Angeles staff on any issues involving the
9 Rancho LPG revocable permit. Thank you.

10 ACTING CHAIRPERSON GORDON: Is there anybody
11 from Rancho here who wishes to testify? No. All right,
12 that being said, I've got a very large stack of folks from
13 the community, and I'm just going to go in order as to how
14 these have been received. So let's start with Kit Fox,
15 followed by Pat Nave -- actually, stall that for one
16 second.

17 Let's start with Mr. Weiss.

18 Mr. Weiss, why don't you come forward, and then
19 we will go next to Kit Fox and then to Mr. Nave.

20 MR. WEISS: Commissioners, thank you again for
21 this opportunity. We appreciate you putting this on the
22 agenda, and my brief time here, I think, I want to just
23 go -- I want to first talk about, I believe, you can do,
24 and then hopefully, we have time where I can comment
25 specifically on some of the aspect of the staff reports.

1 No. 1, you can agendize an action item on
2 whether or not as a matter of policy no title, no trust
3 assets, no Tidelands Trust assets should be allowed
4 without adequate insurance or protection for the public.
5 That's in keeping with your fiduciary duties. You can
6 call the Port, you can have them explain to you why
7 essentially they haven't done anything.

8 What we're talking about is the rail line going
9 through the facility, through the port facility. That's
10 Tidelands Trust assets. Also the rails spur is a Tidelands
11 Trust Assets and also the rail line in front of the Rancho
12 facility is a Tidelands Trust assets for which Rancho pays
13 a pittance and, in fact, Rancho doesn't pay, Plains LP
14 marketing pays. And they pay \$1287 a month which is far
15 below what the fair market value is.

16 We just had a report on the value of the
17 Tidelands Trust Assets -- well, that's being given away.
18 This Tidelands Trust Assets is being given away indirectly
19 by the fact that these people are getting basically a free
20 ride, low rent, and given the amount of the risk.

21 Three, we can have the Port negotiate
22 with the L.A. Fire Department to inspect the facility on a
23 quarterly basis. The port can pay the L.A. Fire
24 Department which they do anyway for fire facilities, just
25 add maybe 3- or 4- or \$500,000 and have at least some

1 degree of inspection by the fire department which does not
2 exist now, which hopefully would mitigate the risk and the
3 exposure.

4 We need a CEQA evaluation, that's in the staff
5 report. That basically should be undertaken given the
6 risk and the balance of the risk and reward.

7 We can have an attorney general formal opinion
8 on how the Tidelands trust use here, whether or not that
9 is consistent with the Tidelands Trust duties and
10 fiduciary responsibilities, given the fact that this
11 commission does have the power. You can sue the City of
12 San Francisco, because you don't want them telling you
13 what to do with the air space above your property. You
14 can certainly tell anybody using Tidelands Trust property
15 not to use it unless they have adequate insurance, and
16 there is no dispute by the way. And Rancho will not
17 dispute it, because they can't. They are financially
18 insolvent as a going institution. They do not pay the
19 rent, Plains LP marketing pays the rent. We have a
20 situation where they are indebted for \$51 million to this
21 other entity that's on there sheet, Plains LP Marketing or
22 Plains LP Services LP. So this is not a situation where
23 the public is protected in any way, shape, or form. This
24 commission can fund the L.A. City controller that has
25 subpoena power to basically do a management audit that

1 could educate and inform this commission and the public
2 about what's really going on.

3 Rancho hides under a rock, Commissioners, and
4 they're not here, but they're not going to talk to you if
5 they can basically avoid doing so. The important thing is
6 I think that -- one minute. Thank you. I think, again,
7 what we're talking about here is the assets themselves are
8 being used in violation of current operating agreements.
9 The PHL Short Line Railroad operating agreement is being
10 violated, as is the rails per permit.

11 So you are presiding over circumstance where
12 your trust assets, basically, are being misused,
13 malused [sic], unlawfully used, and to the extent that you
14 want to rely on Rancho's insurance, I don't think it's
15 reasonable to expect any insurance company to pay for
16 damages caused as a result of unlawful improper use. We
17 need the facts. We need a discussion. We need competent
18 policy basically being made here. And to the extent is
19 that there is some legal issues, I think, again, the
20 attorney general basically can inform the issue and for
21 all concerned.

22 So essentially, again, the -- I don't think
23 anybody should violate their covenants with the Port with
24 this commission's acquiescence either by in action or direct
25 action. And I appreciate your consideration. Thank you

1 very much.

2 ACTING CHAIRPERSON GORDON: Mr. Meier or
3 Ms. Lucchesi could you -- Ms. Weiss has made several
4 fairly serious allegations that our trust assets are being
5 illegally used. Have you determined whether that's true
6 or not? Unlawful used.

7 EXECUTIVE OFFICER LUCCHESI: Well, I'm not quite
8 sure of what the details of that unlawful use is and our
9 previous staff report from our June meeting, the
10 Commission staff did analyze the consistency of the use
11 of public trust lands by a railroad spur, and in that
12 analysis from our June meeting it was staff's
13 determination that it was a use that was consistent with
14 the common-law public trust, as well as the statutory
15 trust grants under which those lands are held.

16 Now, again, just to reiterate what staff
17 counsel, Staff Attorney Colson was saying earlier, where
18 the only portion of the that is located on public trust
19 lands within the Port of Los Angeles is a railroad spur.
20 The actual facility is located on private property. So
21 when we're talking about the use of the railroad spur -- a
22 railroad spurs on public trust lands, yes. We determined
23 that that type of use is consistent with the trust.

24 Now, Mr. Weiss talked about maybe violations or
25 unlawful use based on the Port's revocable permit or the

1 agreement between the Pacific Harbor Line and the Port.
2 Now, the port has not determined that there's a violation
3 of the revocable permit. We have not seen evidence of a
4 violation. So you know, I'm not sure if he can expand on
5 that. I will also say that the port currently has
6 \$1 million of liability insurance from Rancho based on
7 that revocable permit and also, has \$25 million of
8 liability insurance for the operation of the Pacific
9 Harbor Line.

10 Commission staff has not evaluated those policies
11 per se, but from our discussions and conversations with
12 the Port of Los Angeles, they believe those are
13 sufficient.

14 ACTING CHAIRPERSON GORDON: Mr. Weiss, could you
15 come forward for a second, please.

16 We have legal opinion from our staff that
17 indicates that a rail spur is a use consistent with the
18 public trust. When you indicate that the -- and remember
19 the only piece of this that State Lands has jurisdiction
20 over is the rail spur. What was the specifically illegal
21 activity or unlawful activity that you are referring to
22 with regard to that rail spur?

23 MR. WEISS: The fact that it's being -- first of
24 all, to correct Jennifer, we're talking about three
25 Tidelands Trust Assets. One, there's the rail lines in

1 front of Rancho facilities which the staff reports make
2 reference to then there's the rail spurs that connect the
3 rail line in front of Rancho facility to the rail line
4 running through the port, and then there's the actually
5 rail line running through the port that carries the butane
6 and propane from the facility.

7 All three of those rail facilities are within
8 your jurisdiction. The rail spur specifically is being
9 violated because the city is allowing the use in violation
10 of the terms of the agreement. There's nothing in the
11 agreement that allows this rail spurs to be used toward
12 this purpose?

13 ACTING CHAIRPERSON GORDON: Which agreement are
14 you talking about?

15 Mr. WEISS: I'm talking about the rail spur
16 permit itself with the City of Los Angeles or with the
17 Port. Also, there's another agreement with PHL, the short
18 line railroad that is between the port and PHL that
19 agreement controls under what terms and conditions PHL,
20 the short line railroad, is allowed to use the Tidelands
21 Trust assets which consists of the rail lines through the
22 port. And there's no question that the port itself is a
23 Tidelands Trust assets. That agreement preclude
24 specifically the use of those rail lines for hazardous
25 material except or unless as specified, and this is not

1 specified in the agreement. It was dated 1997, and the
2 use is currently ongoing is not consistent with that
3 agreement at all. That agreement needs to be
4 renegotiated.

5 And the State Lands is in a position, basically,
6 to direct that because the use of their rail assets
7 Tidelands Trust Assets being used in violation basically
8 undermine the ability to protect the State's interest to
9 procure insurance, and also the fact that such a pittance
10 is being paid, imbalances the risk reward ratio.

11 ACTING CHAIRPERSON GORDON: Thank you, sir.

12 MR. WEISS: Thank you. Appreciate it,
13 Mr. Gordon.

14 ACTING CHAIRPERSON GORDON: Ms. Fox, Kit Fox.
15 Oh, that's a gentleman. I'm sorry, Mr. Fox.

16 MR. FOX: Thank you, Chairman Gordon and members
17 of the Commission for the opportunity to address you this
18 afternoon. My name is Kit Fox. I'm the with the City
19 Manager's Office of the City of Rancho Palos Verdes. Our
20 residence at the closest point are located roughly half a
21 mile from the rail spurs that you're discussing this
22 evening. Our city supports the commission's review of
23 this revocable permit to the extent that this review
24 protects the State's interest in this public trust assets.

25 We believe it will also help to protect the

1 interest of the communities that surround the rail spur
2 and the Rancho LPG facility. We understand that they are
3 limits to the Commission's jurisdiction and authority in
4 this matter, but we encourage the Commission to exercise
5 the full scope of its authority in reviewing this permit
6 to protect the health and welfare of the public and both
7 in San Pedro and our city.

8 ACTING CHAIRPERSON GORDON: Hold on one second.

9 MR. FOX: You're looking at a question that I
10 did note in the staff report this afternoon on Page 2
11 under the discussion of the liability insurance policy and
12 the third paragraph we talked about an offer from Plains,
13 regarding something called a parental guarantee agreement
14 that sounded like it was possibly under some type of review
15 by Commission staff, and I didn't hear that there was
16 discussed in the oral comments before, and we were just
17 curious what that means or if there is any new information
18 as a result of that offer that's been made by Plains.

19 ACTING CHAIRPERSON GORDON: Ms. Lucchesi, you
20 want to describe that offer, please.

21 EXECUTIVE OFFICER LUCCHESI: Yes, of course. As
22 described in the staff report the Commission received an
23 offer from Plains for a parental guarantee for a term of
24 three years in favor of the Commission and the Port of
25 Los Angeles on behalf of Rancho LPG. The purpose of the

1 guarantee was to cover casualty losses to the extent of
2 uninsured losses or damages arising in connection with a
3 casualty event at the Rancho LPG facility. So it's very
4 specific, at the facility. We have been evaluating that.
5 We sent it on to the Attorney General's Office for their
6 review.

7 We've also sent it on to the Port of Los Angeles
8 for their review, and it's not something that the
9 Commission expressly needs to accept, but both staff
10 representatives from the AG as office, as well as the Port
11 has a couple of changes to make to that in order to convey
12 to Plains to execute it.

13 ACTING CHAIRPERSON GORDON: Ms. Lucchesi, in
14 your opinion does this offer cover the community around
15 the site if anything were to happen there?

16 EXECUTIVE OFFICER LUCCHESI: You know, that is
17 something that we are currently working with the AG's
18 office to figure out if it actually does. My best guess
19 on the spot right now, based on the language used is that
20 it would only cover casualty events at the facility
21 itself.

22 ACTING CHAIRPERSON GORDON: Can I please have
23 somebody from Rancho up here please. I have a question
24 that is somewhat disturbing. I know there are
25 representatives in the back. Nobody wishes to speak?

1 Identify yourself please, sir.

2 Mr. KYLES: Certainly. Good afternoon,
3 Commissioners. My name is John Kyles. I'm senior
4 attorney with Plains All American Pipeline. Rancho is one
5 of our facilities. So I'm here as a request to respond to
6 your question to the extent that I can.

7 ACTING CHAIRPERSON GORDON: Thank you. The
8 question I have is at our last hearing when this came up,
9 it had been disclosed -- it had been represented to us
10 that there were privacy issues, for want of a better term,
11 as to why Rancho could not show us a liability insurance
12 policy. We made an offer at that time for that policy to
13 be showed in camera to the attorney general, not made
14 public.

15 Rancho has decided that they don't wish to avail
16 themselves of that. Can you please tell me, first of all,
17 why the State of California cannot look to see the
18 validity of the liability insurance, and, B) exactly what
19 company secrets one would be releasing?

20 I was a litigating attorney myself, and I've
21 never seen anyone claim privilege over insurance policy.

22 MR. KYLES: Mr. Gordon, first of all we're not
23 in litigation with the State of California or with the
24 State Lands commission or with the Port of Los Angeles.
25 Rancho concurs with the opinions that have been already

1 expressed in staff report regarding the scope of authority
2 for the commission.

3 That scope goes beyond insurance coverage for
4 anything outside of the rail spur activity, and of course
5 you have a copy of Rancho's binder for the rail spur.
6 With respect to the insurance policies themselves for all
7 of Plains, as well as Rancho, the details of each of the
8 individual insurance policies, quite frankly, goes beyond
9 of scope of any jurisdictional authority Commission.

10 It was an extraordinary request for you to ask
11 for the insurance policy since we're not in privy with
12 you. However, as an accommodation, we offered you proof
13 that there's ample insurance with respect to the
14 activities of Rancho at this facility, and so we provided
15 you with evidence of half a billion dollars of coverage,
16 and in addition to that, we provided you with a parental
17 guarantee with respect to any casualty activities that
18 occur at Rancho.

19 So at this point, the commission has been
20 provided with a good faith attempt to try and provide you
21 with some insight into Rancho's ability to cover any
22 foreseeable liability at the facility and to go beyond
23 that, quite frankly, isn't anything that's dictated by the
24 letter of the law.

25 ACTING CHAIRPERSON GORDON: Sir, is it your

1 understanding that the parental guarantee that you offered
2 would cover casualties in the community should there be an
3 accident at the facility?

4 MR. KYLES: There's a reason -- and I don't have
5 the guarantee before me, and quite frankly it would be out
6 of turn for me to provide you with a legal interpretation
7 of that parental guarantee that was presented quite
8 sometime ago. However, my understanding is that it would
9 cover casualty losses above and beyond that half billion
10 dollar coverage that we already provided proof of to the
11 extent that there are casualties associated with a
12 catastrophic event at Rancho.

13 ACTING CHAIRPERSON GORDON: Ms. Lucchesi.

14 MR. KYLES: Do understand -- and let me make
15 certain that I'm communicating clearly what I'm attempting
16 to convey. A casualty event, a catastrophic event would
17 emanate at a site and then there's a ripple effect to the
18 extent that there is any casualty whether within the
19 perimeter of the facility or adjacent to it. If there's
20 evidence to show that the proximate cause of the damage
21 was the catastrophic event in Rancho, then it should be
22 covered by the parental guarantee.

23 ACTING CHAIRPERSON GORDON: So in essence, what
24 you are saying is that the parental guarantee would cover
25 losses above and beyond the 500 million that you've

1 proven. That if a catastrophic event happened that did
2 damage to individuals and property in the community, that
3 it is intended that the parental guarantee would cover
4 those losses?

5 MR. KYLES: That is my understanding, and I will
6 research the issue, and I will get back to you if there is
7 anything that I need to delete, add or amend.

8 ACTING CHAIRPERSON GORDON: That is my primary
9 concern at this point in time, that the community is
10 covered, and if that is the case, you have Ms. Lucchesi
11 and her staff will be able to negotiate with you on that
12 to determine that that is what the company is providing.

13 MR. KYLES: Thank you.

14 ACTING CHAIRPERSON GORDON: Thank you, sir.
15 Pat Nave, please.

16 MR. NAVE: Good afternoon. My name is Pat Nave.
17 I'm a resident of San Pedro. I have comments in three
18 areas including the revocable permit and insurance. My
19 major comment though has to do with the method by which
20 the City of Los Angeles administers the trust and that
21 speaks to the management responsibilities and powers of
22 the State Lands Commission and also the legislator.

23 In 1911 the State granted the sovereign lands to
24 the City in trust for 300,000 people, maybe, in
25 Los Angeles at the time. The city is the one that decided

1 to divide the responsibility for the administration of the
2 trust in its city charter, and its done in a geographical
3 way, and it leads to a lot of problems.

4 I think it contributes to how we're able to
5 resolve issues in Los Angeles. It leads to -- it's one of
6 the reason that leads us to be here as often as we are.
7 What the city has done is said, look we have a harbor
8 district, and that's what the border harbor commissioner
9 is going to administer. It's the tide and submerge lands,
10 and it's the lands and waters that are purchased by the
11 Harbor Revenue Fund which is the Sovereign Trust Fund.
12 There's a couple other small ways that lands can get into
13 the harbor district. But here's the thing, what it's done
14 geographically, what happens in Los Angeles is that if we
15 come to the Harbor Commission and say, "Look, you own the
16 rails spur and the rail land. You don't own the land on
17 which Rancho is located." And they say, "Well, we can't
18 handle that. You got to go to the City for that." And
19 city counsel says, "We don't have the rail spur. You got
20 to go to the Harbor Commission for that." So there's an
21 old saying, "When everyone has responsibility, nobody has
22 responsibility."

23 I'm suggesting to you that one of the things
24 that could happen is for staff and your attorney general
25 and for the legislative counsel, but also the CLA and city

1 and so forth to think about a foundational administration
2 of the trust so that when we have issues about the rules
3 around the harbor and their use, when we have concerns
4 about the safety of refineries and so forth in South Bay.

5 You know, you got to keep in mind that there's a
6 lot of refineries in L.A. that are close to the harbor and
7 the reason they are there is because the water is there,
8 and that's why Rancho is there because of what those tanks
9 use to be connected to the water. So we've got --
10 everybody recognized as we've had safety concerns and
11 safety issues, how to resolve them the best way and in a
12 rational way and in an adult way. That was one thing.
13 The revocable permit issue really is not so much the
14 revocable permit but how the Port looks after rail safety,
15 its lines in the port. I can guarantee you that PHL is an
16 operating agency for the Port, operates pursuant to a port
17 contract. Port has no idea what PHL is doing with those
18 railcars.

19 We get complaints from people in Wilmington and
20 some areas where we see the cars are on sidings next to
21 homes, no idea what's in them. I know the Port doesn't
22 know what's in them. So we've asked for some reviews and
23 they shipped it off to -- I've been offered some time by a
24 couple of others, if I may?

25 ACTING CHAIRPERSON GORDON: Who are the other

1 speakers? Who are wishing to surrender their time?

2 PAT NAVE: Pete Burmeister, and Darlene
3 Zavalney?

4 ACTING CHAIRPERSON GORDON: Okay.

5 MR. NAVE: One other issue on the -- so some
6 work needs to be done in that area. We've asked the Port,
7 and we've asked the city for it. It's been referred to
8 the City's Administrative Officer or the CLA, I think it
9 is -- filed motion and so forth, but, you know, you send
10 it downtown, those folks have no idea how to respond to
11 something like that. It's really out of their way. It
12 needs to be looked at. We've asked for it.

13 Our insurance issue is this, our homeowner's
14 insurance policies, including the kind I have is a deluxe
15 policy, it excludes coverage for sudden blast and sudden
16 emissions. If Rancho's insurance is to respond in damages
17 for an admission for that, we would have to make a claim
18 against Rancho wherever it might be located at that time.

19 Much better if there is a rider on their policy
20 that says, "Additional insurers are the homeowners in that
21 area," so we can make a claim directly against the
22 insurer, not against Rancho?

23 ACTING CHAIRPERSON GORDON: Thank you, sir.

24 Next, Mr. Alfred Sattler, please.

25 MR. SATTLER: Okay. Good afternoon. I'm Al

1 Sattler. I'm the Chair of the Palos Verdes-South Bay
2 Regional Group of the Sierra Club. First of all, we sent
3 a letter by e-mail actually on Saturday. Was it received
4 in time to be considered?

5 EXECUTIVE OFFICER LUCCHESI: Yes, it was
6 received in time to be considered and would have been
7 forwarded on to the commissioners.

8 MR. SATTLER: Okay. Thank you.

9 I want to say that we share concerns about the
10 safety of this facility. We appreciate the State Lands
11 Commission is taking a closer look at the issues of
12 whether a rail spur permit is appropriate, and we're
13 encouraged by the staff's recommendation that the State
14 Lands commission continue to work with the Port of
15 Los Angeles on issues involving the revocable permit
16 issued in Rancho LPG.

17 The Sierra Club has previously indicated that
18 support for relocating the propane and butane tanks from
19 Gaffey Street to another location more remote from schools
20 and residences. We reiterate that support. The
21 commission responsibility to manage State Lands assets to
22 assure the greatest possible benefit is derives there from
23 should consider the potential cost to the public in
24 relation to the benefits.

25 In this case the public derives a negligible

1 benefit while bearing a very weighty burden, the risk of
2 loss of property, health, and life. You know, off the
3 topic of -- slightly off topic, I want to say that the
4 Prevention First Conference that was mentioned is a very
5 good thing to have had. Prevention is much better than
6 dealing with the consequences of non-prevention.

7 I did notice it was sponsored by numerous oil
8 and gas companies, including Plains All American Pipeline,
9 the holding company for Rancho LPG, as well as Chevron,
10 Shell, BP, Western States Petroleum Association, Tesoro
11 and Delero among the many others, and the \$275
12 registration fee. So it was not something that was easily
13 opened to the general public.

14 I just hope that there wasn't too much of a
15 feeling of excess comradery with staff commingling with
16 all of the oil industry people there, and I noticed there
17 was a section on crude by rail transporting. Crude oil by
18 rail and California refineries has been trying to bring in
19 Tarzan's crude by rail, and this is a rather scary
20 prospect. There has been several major accidents and
21 fires from tar sands crude railcars and the prospect of
22 this coming to Southern California is not comforting.

23 ACTING CHAIRPERSON GORDON: Jeanne LaComba,
24 please.

25 MS. LaCOMBA: Good afternoon. My name is Jeanna

1 LaComba. I'm president of Rolling Hills Riviera
2 Homeowners Association in Rancho Palos Verdes, and our
3 residences are anywhere from just under a mile, to a mile
4 and a half away from the facility. I would just like to
5 remind the Commission that your job is to protect the
6 public's interest, not the interest of a private company.

7 I am also really interested in why in this
8 recent staff report in this meeting, it refers to Rancho
9 LPG and not Rancho Holdings LLC. It's a very important
10 component of this business. They are a limited liability
11 corporation. And when the staff describes their business
12 structure, it says that Plains All American Canada is the
13 parent company. That kind of alludes to the fact that
14 Plains might be responsible for any sort of explosion at
15 Rancho accident, or terrorist attack, and that's not the
16 case.

17 Rancho holdings is an independent company that's
18 an LLC, so any sort of responsibility would stop there.
19 Anybody that suffers damage, they would be forced to sue
20 Rancho Holdings LLC, and as an LLC that would be nearly
21 impossible to get a judgment in our favor. Okay. So how
22 on Page No. 4 it refers to the liability insurance. That
23 covers the port and the rail line, and the public has zero
24 insurance coverage.

25 We're not named in their insurance policy.

1 Their insurance doesn't cover anything beyond their fence
2 line, and that's a huge, huge issue for our community. We
3 would actually have to sue the company in order to get
4 maybe some recovery. However, depending on how the policy
5 is written, which they refuse to show anyone, there could
6 be exclusions for terrorist attack, negligence by one of
7 their employees, earthquake, things like that.

8 Also, I have an issue where it says that the
9 staff recommends that the commission by the subject staff
10 analysis does not have potential for a result in either a
11 direct or reasonable foreseeable indirect physical change
12 in the environment. So they actually do have a stated
13 half mile blast radius filed with the EPA, and I don't see
14 how it would be -- it would be impossible to not have some
15 sort of physical change if there were an accident.

16 So I think it would be foreseeable that that
17 could be a possibility. It is possible, and that's why
18 the Department of Homeland Security has it on a high risk
19 factor. Also they talk about the insurance, the
20 \$500 million insurance policy. Like I said, we would have
21 to sue the company in order -- because we're not named
22 under the policy, and what are the policy's limits? Who's
23 the insurer, you know, who do we contact? Where are the
24 exclusions. We have no information, and you don't have
25 any information in order to make a rational decision.

1 My recommendation is because it's a revocable
2 permit, you revoke the permit until all these answers can
3 be answers with extreme clarity and to everyone's
4 satisfaction. You know, you have to do what's best in the
5 public interest, and that would be in the public interest.
6 If you don't have all the answers, then revoke the permit
7 until you do. Anyway, that's my recommendation.

8 ACTING CHAIRPERSON GORDON: Mr. Meier, one quick
9 question, the parental agreement that's been offered, is
10 that coming from Rancho or is that coming from Plains?

11 CHIEF COUNSEL MEIER: The parental guarantee
12 comes from Plains to cover the liability -- to cover
13 Rancho's.

14 ACTING CHAIRPERSON GORDON: That's what I
15 thought. So for the people in the audience do understand
16 first of all, that the parental guarantee that's being
17 discussed and being negotiated is from the parent company
18 which is solvent. All the arguments about Rancho itself
19 whatever their financial circumstances are, the parental
20 agreement would be from the parent holding corporation.
21 Secondly, with regard for the request that people in the
22 community to be named in the policy, I -- one of the
23 attorneys please tell me if I'm wrong, but I've never
24 heard of a policy, of a liability policy that covers a
25 community other than the facility for actions out of the

1 facility?

2 CHIEF COUNSEL MEIER: The coverage is for
3 Rancho's liability in the event of a catastrophe. Anyone
4 who claims damage can submit a claim. The question I have
5 is that I do not think Rancho's attorney answered this
6 question was whether the parental guarantee was limited to
7 claims by the state and the port or extended to claims by
8 other third parties members of the public. That was not
9 clear to me from his answer.

10 ACTING CHAIRPERSON GORDON: It was my
11 understanding that the gentleman answered that it did
12 extend to members of the public.

13 CHIEF COUNSEL MEIER: It was not clear to me.

14 ACTING CHAIRPERSON GORDON: Okay. All right.
15 Let's see, Dorota is the next -- D-o-r-o-t-a.
16 No, not here? Oh, I'm sorry.

17 MS. STARR: All right. I was hoping I'd be
18 last. Okay. Hello, my name is Dorota, and I'm not an
19 expert. I'm just a citizen, and a constituent from San
20 Pedro. I'm wearing red for danger, and I do not
21 understand, beyond a shadow of doubt, what it's going to
22 take for the powers to be to listen and act on all of the
23 supporters that have come here that are concerned about
24 the possibility of harm.

25 People have been coming in talking to various

1 members of community for over ten years. One of them I
2 spoke to 12 years. All of this information has been
3 passed on.

4 A five-year-old child would know better that
5 even one inch or a half an inch or a quarter of an inch or
6 an eighth of an inch of doubt could exist that could cause
7 an explosion of mammoth proportion or could, whether it
8 happened by tank, by truck or rail or in any other way. I
9 would like to see a hundred percent proof in writing from
10 any of you that these experts' fears, based on fact, that
11 have already happened elsewhere can't, and I mean cannot
12 occur beyond a shadow of doubt here.

13 The efforts so far has been to convince all of
14 you, and yet I see no convincing drop of proof that Rancho
15 LPG, or Plains or any name by any other name is still the
16 same, is safe for me, for the thousands of citizens here
17 at all. In fact, I am thinking of selling my property,
18 because if I may say so, I am so afraid that something
19 will happen and nobody will be doing anything about it and
20 after the fact what are you all going to say?

21 ACTING CHAIRPERSON GORDON: Thank you, ma'am.

22 We're going to take a ten-minute break right now
23 for the court reporter to get -- where is our court
24 reporter? Oh, over here, for the court reporter to get
25 herself new tape and give her a little bit of break. So

1 ten minutes.

2 It's currently -- what time? It is 3:03. We'll
3 make it 3:15 on the dot.

4 (Off the record.)

5 (Back on the record.)

6 ACTING CHAIRPERSON GORDON: All right everybody.
7 The next three speakers will be Chuck Hurt, John Miller
8 and Toni Martinovich.

9 Mr. Hart.

10 MR. HART: Chairman Gordon and Commissioners,
11 thank you for this opportunity. I represent San Pedro
12 Peninsula Homeowners United. I'm the current president of
13 the association. It represents 2,000 homeowners that live
14 directly across the street from Rancho facility. I
15 presented a list of facts trying to explain our
16 frustration with this whole process. So it's going to be
17 a repeat of what's been said before, but bear with me if
18 you will, please.

19 Fact 1, LPG is highly explosive and dangerous.
20 The storage facility should not have been allowed to be
21 built next to an existing residential neighborhood in the
22 first place. Fact 2, Rancho LPG has enough explosive
23 potential to destroy thousands of lives and create a havoc
24 to our economy and our ports. Fact 3, the ports, knowing
25 the potential for disaster, has been link to gamble that it

1 will not happen by allowing the LPG to pass through our
2 neighborhoods and the ports by a rail made possible by
3 a rail spur leased by the port to Rancho.

4 Fact 4, tanks or railcars of LPG are
5 vulnerability to accidents. Five, to date, no
6 governmental agency at SPPHU has attempted to get involved
7 or willing to do so to take any action necessary to
8 prevent a catastrophic event.

9 Next fact, apparently, the current regulation
10 prevent them from doing so. Those with the power to make
11 the necessary regulation changes have made no effort to do
12 so. Fact, by staying with the status quo, we are destined
13 to experience a catastrophic event related to Rancho LPG,
14 because no one, to date, is going to take up our flag and
15 fight with us against this powerful American petroleum
16 institute.

17 Fact, we appear to have a dysfunctional
18 representative government that talks the talk but doesn't
19 walk the walk. San Pedro Peninsula Homeowners United
20 believes that the State Lands Commission has the authority
21 to end this downward spiral by exercising its rights to
22 protect the land, water ways, and resources entrusted to
23 it's care through economic development, protection,
24 preservation, and restoration.

25 This port-approved rail spur could eventually

1 prove to be the nucleus of a disaster resulting in
2 hundreds, if not thousands of lives impacted and billions
3 in potential losses. We respectfully request that the
4 State Lands Commission stand with us and take the
5 necessary steps within your power to close this rail spur
6 that represents a highly serious liability issue to our
7 economy and the public.

8 Thank you for this opportunity.

9 ACTING CHAIRPERSON GORDON: Dr. Miller.

10 DR. MILLER: Good afternoon, Commissions, I'm
11 Dr. John G. Miller. I'm an emergency room doctor. I'm
12 also president of the San Pedro Peninsula Homeowners
13 Coalition which is a group of ten homeowners groups
14 representing several thousand homes in the San Pedro
15 Peninsula area. I'm going to speak about Rancho disaster
16 related issue that has been overlooked. I shared many of
17 the speakers concern about the potential for an enormous
18 catastrophic from the Rancho facility.

19 In my own research from my perspective as an
20 emergency physician, I have found that we don't have
21 enough critical burn beds available to treat all the
22 critically burned patient a disaster at Rancho would
23 generate, not at the Southern California level, not at the
24 statewide level, not at the Southwestern level and
25 actually, not even at national level. Critically burned

1 patients need burn unit beds and special care the
2 community hospital simply cannot adequately provide.

3 We can stabilize a critical burn patient in our
4 ERs, but then that patient needs to go to a burn center
5 ASAP. What critical burn units beds that exist are almost
6 always fully nearly occupied. That is, there is almost no
7 real surge capacity available in the system that exists.

8 In the past two decades I have experienced the
9 reality that when I've had even a single critically burned
10 patient in the ERs where I worked, it was a very time
11 consuming process to find even one burn unit bed for than
12 patient. One model from history that we can use to get a
13 general idea of how many casualty that could be generated
14 by Rancho is the 1987 Tarragona Spain disaster.

15 One tanker truck of propylene, which is similar
16 to propane, spilled creating a gaseous vapor that flowed
17 downhill into a campground and ignited. The resulting
18 fireball incinerated everything within a thousand foot
19 radius. One hundred and five people died on site. Many
20 burned beyond recognition. 300 people were severally
21 wounded, mostly with extensive third degree burns. In the
22 following months 270 more people died of their injuries.

23 The burn care capacity of the entire Spanish
24 healthcare system was overwhelmed, and this was from only
25 one truckload of this material. Not the 25 million

1 gallons that can be stored at Rancho. The resulting
2 fireball from Rancho could be reasonable expected to be
3 much larger than the one in Tarragona.

4 I note that the fact stated in your staff report
5 that the parent company, Plains All American, is unwilling
6 to provide or facilitate the Attorney General's Office
7 in-camera review of their actual liability insurance
8 policy, which they alleged they have, despite the
9 Commission Chair's prior recommendations to do this should
10 raise a very large red flags for you. What are they
11 hiding?

12 And while the USEPA was talking with Rancho
13 about violation at Rancho, the public was being told by
14 Rancho's representatives that there was no violations. In
15 closing, I tell you that the San Bruno fire generated over
16 \$2 billion worth of damages, and the possibility at Rancho
17 is much larger. Please use your authority to do what you
18 can to correct this situation, thank you.

19 ACTING CHAIRPERSON GORDON: Tony Martinovich
20 followed by Kathleen Woodfield and Nancy Vitale, please.

21 MS. MARTINOVICH: Hi, I'm Toni Martinovich,
22 second generation San Pedro resident, and I want to thank
23 you for continuing to keep this rail spur permit on your
24 agenda and in your opening discussion about what this
25 commission does, you mentioned the word "responsibility,"

1 and I'd like you to please take that responsibility to
2 heart, because San Pedro needs a champion. And we need
3 somebody who won't keep passing the buck. We would like
4 you to continue to explore your responsibility and take a
5 leadership role in continuing to safeguard our land and
6 the community. Thank you.

7 ACTING CHAIRPERSON GORDON: Thank you. Kathleen
8 Woodfield followed by Nancy Vitale and Mr. Gunter --
9 Ms. Gunter.

10 MS. WOODFIELD: There's a couple of things I
11 wanted to ask you. Did you get Jesse Marquez's -- okay.

12 EXECUTIVE OFFICER LUCCHESI: Yes, and it was
13 also addressed to the Chair, but we forwarded it on to the
14 other two Commissioners as well.

15 MS. WOODFIELD: Okay. And then also I have a
16 letter here from Marci Miller which I want to give to you.
17 I was originally going to give it as my testimony.

18 My name is Kathleen Woodfield. I'm Vice
19 President of the San Pedro Peninsula Homeowners Coalition,
20 and I wrote on my card, and maybe -- I do think it's
21 important for us to at least give a little attention to
22 this. It's very confusing about whether you oppose or
23 agree on the card. So I wrote that I oppose some of the
24 findings of the staff report. However, I do certainly
25 support you staying involved, which is what I think I'm

1 hearing, although I'm not sure.

2 So I hope you understand the quandary, and
3 please don't just look at the cards and count, you know,
4 how many opposed and how many approve, because it's much
5 more complicated than that. I have firsthand knowledge of
6 State Lands staff investing its time and asserting its
7 authority in order to shape and restrict mitigation
8 projects intended to mitigate negative port impact in the
9 community.

10 And I have that firsthand knowledge over many,
11 many, many, years. The hypocrisy, therefore, of the staff
12 report that states, grantees have the primary
13 responsibility of administrating the trust on a day-to-day
14 basis is remarkable and disturbing. And it shows that
15 State Lands will scrutinize port community mitigation
16 benefits, yet look the other way when the same port
17 community is put at risk by big industry.

18 These combined actions cause State Lands own
19 environmental justice policy to be moot, and in terms of
20 doing the right thing, this is a opportunity lost, if
21 State Lands does not intervene on this issue. The Port
22 has demonstrated that it has not been diligent when it
23 comes to its relationship with Rancho. Port has not made
24 sure that the insurance of Rancho is adequate. The Port
25 does not convene safety meetings as called for in their

1 rail spur permit with Rancho.

2 The Port does not keep track of what is in the
3 railcars, where they are parked, or where they are going
4 and when. The Port has allowed erroneous language to
5 persist in the revocable permit. They continue to renew
6 without review. The Port is not here as far as I can see.
7 If they are here they have not spoken.

8 I hope that our presence here, the community,
9 gives you the courage to stay involved and to continue to
10 intervene in a more significant way on this very important
11 issue. I hope that I'm hearing from you that you are
12 going to make sure that Rancho discloses its insurance in
13 a meaningful way that is understandable to everyone so
14 that we really do know what is and isn't in the language
15 of their policy. And I would hope that you could
16 create -- I would hope that you could create some sort of
17 oversight where the Port is looking at those railcars,
18 where they are going, when they are going and convening
19 those safety meetings like they are supposed to, which
20 they have never done as far as we know.

21 And thank you for listening to us today. I
22 really, really hope you continue to stay involved, because
23 if you don't, this whole issue is just going to fade away
24 from the Port's perspective. I don't see them stepping up
25 to the plate to do anything differently than what they've

1 shown us is there standard MO with this particular
2 facility thank you.

3 ACTING CHAIRPERSON GORDON: Nancy Vitale,
4 followed by Mr. or Mrs. Gonyea and June Burlingame Smith.

5 MS. VITALE: Good afternoon, Commissioners. My
6 name is Nancy Vitale, and I am the Director of the John
7 Goya Campaign for State Assembly, and San Pedro is within
8 his district. Unfortunately, John was not able to attend
9 today. John is a chemical engineer by degree and
10 education and, therefore, understands the dynamics of
11 Rancho facility. He was present at the meeting with the
12 EPA and Homeland Security several weeks ago and was
13 concerned that after he handed his card, his question card
14 to the spokeswoman for the EPA, she consulted with the
15 organizer of the forum and put his card at the bottom of
16 the pile.

17 His question is simple: If she was in her last
18 year as a chemical engineer, if she was in her last year
19 of senior lab, would her class -- and Rancho was her class
20 design task, would she design the facility as it presently
21 stand or would she, due to perimeters of location, design
22 it differently for reasons of public safety and what grade
23 would she assign to the present Rancho design?

24 John was concerned with her reaction to his
25 question and believes that her lack of any answer is the

1 absolute answer. Thank you, and I'd like to submit my
2 remaining time to another speaker.

3 ACTING CHAIRPERSON GORDON: Mr. or Mrs. Gonyea?

4 Ms. June Burlingame Smith followed by Connie
5 Rutter and Diana Nave.

6 MS. BURLINGAME SMITH: Good afternoon,
7 Commissioners. I thank you as other people, people have
8 said for taking our issues seriously. I'm not going to
9 try to repeat all the legal or scientific particulars that
10 you've heard, not only today, but in the past, but
11 I believe that your concerns really give heart to our
12 democracy, our representation governance.

13 In that I think that in the long run you have to
14 finally make your decision on what's called a moral
15 imperative. And the moral imperative -- you're laughing,
16 Mr. Gordon -- oh, smiling not laughing. But what the
17 moral imperative, as you know, is really a principle that
18 is inside all of us that dictates what is right and what
19 is wrong.

20 Kant and his philosophical renderings made this
21 a categorically imperative. In other words, on the basis
22 of that moral reasoning and that moral center it was equal
23 to, if not, commensurate with reasoning and actually
24 overstated some of the other reasons involved. So today I
25 bring to you the question, what is the moral imperative

1 here? I would like the State land's Commission to take all
2 of the little details and all the legal aspects of this and
3 do what you know has to be done. And that is, someone has
4 to take responsibility who has the authority and you
5 haven't. Imagine that your mother is sitting in this
6 front row. Now, that could be your mother, it could be my
7 mother, it could be mother nature. If it's your mother,
8 your mother would say, "Alan, Eraina, Kevin, you protect
9 the people." If it's mother nature, she has no words, but
10 she has strong actions.

11 ACTING CHAIRPERSON GORDON: Connie Rutter,
12 please.

13 MS. RUTTER: Here I am. I am the Chair of the
14 Holy Trinity Parish Peace and Justice Group. That's how I
15 got into this. This, you know, worrying about these tanks
16 for about two years now. My background is I worked 30
17 years as the environmental coordinator or manager for
18 refineries and then after that, spent more time as a
19 environmental consultant. So I'm aware of the problems.
20 And I'd like to just key off with what June said. I
21 really, really appreciate you guys taking this on, because
22 I can't tell you how many people we have gone to and just
23 in the short two years that I've been working on it, and
24 they essentially say, "Gosh, that's too bad. There's
25 nothing we can do."

1 So I really generally appreciate you're hanging
2 in there with this issue simply because this is so -- this
3 stuff is so dangerous. The people who originally
4 permitted really have to be blamed by the rest of us,
5 because they apparently never even cracked a book to tell
6 them what are the boiling points of these substances, how
7 much they expand, how flammable they are, and that they
8 can't be put out once they are ignited.

9 So but I want to contest something in the staff
10 report and that is that this facility is in compliance
11 with the EPA laws. The problem with that is the EPA
12 already know they got problems with their laws from the
13 meeting that we had between the department of Homeland
14 Security and the EPA. The EPA presenter kept making
15 excuses that we're following our guidelines, but tell us
16 what's wrong with our programs.

17 And this follows, if you remember after the West
18 Texas fertilizer plant explosion that President Barack
19 Obama came out with an executive order essentially saying,
20 tell us what's wrong with our hazardous material laws. So
21 I have just written about maybe eight, nine pages worth of
22 telling them what's wrong with their hazardous material
23 laws. But let me tell you too that I would like you to
24 remember -- and please let me finish. So the one thing is
25 that the law that was passed after Bopal essentially put

1 the decision for these kinds of hazardous materials
2 facilities in the hands of the public, theoretically
3 because this, it was emergency procedures and community
4 right to know. And so the assumption was that the
5 community, once they knew what was dangerous in their
6 area, they would bring pressure to bear on the elected
7 officials and do something about it.

8 Problem is that in the law there is no ability
9 for the public to get rid of a facility that is just too
10 risky. The other thing is that the EPA, I'm almost
11 positive they understand this now, they caved into -- and
12 I have told you this before, this will sound familiar,
13 they caved in to a suit by the American Petroleum
14 Institute that essentially said, hey if there is "passive
15 mitigation," in other words, once the stuff gets out it's
16 going to be caught by a dike barrier or impound basin.
17 Problem with that, if they had looked this up, is that
18 this stuff is stored as a liquid, but it becomes a gas
19 almost as soon as its released.

20 The dike barrier is to hold the liquid contents
21 of the tank, but as soon as it gets out it will start to
22 vaporize, and then the vapor exceeds the impound basin.
23 So this quote, this is "passive" all right, but it's not
24 mitigation. But the EPA caved in after the suit and
25 allowed them to say that it's really a half mile blast

1 radios where as their previously guidance says, if you do
2 the calculation, says that it's a three-mile radios.

3 So but I had lots more things that were wrong
4 with their rules, but particular those two. So it makes
5 it so that the EPA knows that they have problems with
6 their rules and they keep asking, "Tell us what's wrong,"
7 because I know that they are going to change that, if they
8 don't, they are immoral. Thank you.

9 ACTING CHAIRPERSON GORDON: Thank you, ma'am.

10 Diana Nave, followed by Janet Gunter.

11 MS. NAVE: Good afternoon. Thank you, and thank
12 you for being patient in listening to all of the
13 testimony. We really appreciate it. I'm Diana Nave, and
14 I'm the past president of the Northwest San Pedro
15 Neighborhood Counsel. Our counsel has long been concerned
16 about this facility. But what I want to focus on right
17 now is the revocable permit for the rail lines, and I'm
18 sitting here listening today to all of the discussion
19 around insurance of the facility itself.

20 My question is, what insurance is there if
21 something goes wrong on the rail line? While an event at
22 the facility itself would be catastrophic, an event on the
23 rail line would also be very damaging to our community and
24 it could have implications on shutting down the nearest
25 terminal at the port, because it is so close, and what

1 protection do we have from event on the rail line itself?

2 We ask questions of Rancho facility when we were
3 there about safety on the rail line, and their answer to
4 us is, it's really not our responsibility. The safety on
5 the rail line is outside of purview. We asked
6 questions about where the railcars go when they leave the
7 facility, and we were told that was proprietary
8 information. Last night we ask the fire department, which
9 is about three blocks away, what they would do in the
10 event that something did happen, and their answer to us,
11 "Well, they have this binder." This binder that they
12 would have to consult to tells them what they would do.

13 So we were left feeling very uncomfortable. So
14 I thank you for your interest and know that you'll be
15 looking out for our safety.

16 ACTING CHAIRPERSON GORDON: Ms. Gunter.

17 MS. GUNTER: Good afternoon, and thank again.
18 We do appreciate your time. I'm glad that Kathleen
19 clarified the issue with the staff report. I mean we all
20 took issue with it based on the fact that we disagree with
21 a lot of it. This staff report really is full of things
22 that we can't do and the reasons why we shouldn't get
23 involved, rather than really look at what we can do and
24 what we should do.

25 The interesting thing is when they relate to the

1 EPA and the Homeland Security meeting, they talk about
2 everything was in compliance, but they don't tell you a
3 couple of very important things which is, No. 1, the EPA
4 acknowledge that the current regulation were not strong
5 enough to ensure safety, and No. 2, that Homeland Security
6 absolutely confirms that night that this is a Tier 1, high
7 risk terrorism target, and it's important when we talk
8 about the insurance on the railcar that we understand that
9 while the company says that their facility has a half mile
10 blast radius, which is ridiculous, for 25 million gallons
11 of butane and propane, a railcar has calculations of 30
12 thousand gallons of butane gas and propane gas of .42-mile
13 blast radius.

14 So when you talk about a \$500 million liability
15 insurance policy, we're looking at a port that just spent
16 \$530 million on a single terminal, which is within a half
17 a mile. So the point comes down to really, these guys --
18 plus the inability of them or the lack of their desire to
19 show you their policy of course goes back to all of the
20 exceptions and restrictions that are associated with the
21 insurance company what they will and what they won't
22 insure.

23 So then you're looking at the viability of the
24 company itself, but when you're talking about expenses in
25 excess in \$2.5 billion like San Bruno, which was a single

1 city block. Okay. Now, you're looking at a 3-mile or a
2 half mile, or if you get one railcar, you think that's the
3 only railcar? If there's another railcar within a half a
4 mile of that railcar, guess what's going up next? So the
5 point is ridiculous, it's ludicrous to talk about
6 insurance when you -- and here's the other thing, whoever
7 estimated the risk of this facility to even begin to
8 understand the magnitude of potential disaster so that you
9 can try to get your head around a fiscal cost or even an
10 amount of damage.

11 And somebody surrendered a bunch of time so I'm
12 going to take it. Okay. Because I think I'm close to the
13 end.

14 Another thing in the staff report that you look
15 at is the structure of the Rancho facility. Okay. You
16 see Rancho there and you see Plains All American and you
17 see Plains Marketing, but what you don't see, you don't
18 see Plains Midstream Canada. That's who signed on to
19 these rail agreements, and all the permits. It's under
20 the ownership of Plains Midstream Canada. Guess what,
21 they are not there. So where are they?

22 You had their signature, but they are not on
23 there anywhere. So what's that about? And by the way,
24 Plains Midstream Canada was indicted by the Canadian
25 government. They had two of the biggest oil spills in

1 Canada in the last so many years. And I don't know what
2 the status of that is, but this is the kind of problem
3 you're talking about. I also want to submit for the
4 record a couple of articles and this one is from the Daily
5 Beast in Seattle, but it states here that 70 miles north
6 of Seattle, Tesoro and Accordance Rail Facility which daily
7 offload some 50,000 barrels of crude -- blah, blah, blah,
8 blah, blah -- leaked into a storm drain that lacked
9 required controls for at least a year before state
10 regulators were made aware of the potential hazards. A
11 faulty pipe connection was the source of the problem
12 according to North West Clean Energy -- blah, blah, blah,
13 blah, blah.

14 As a result of the flaw, hydrocarbon vapors --
15 as a result of the flaw, hydrocarbon vapors were being
16 produced in the rail facility storm water system that
17 could have ignited under the right conditions experts say.
18 Tesoro officials insist there was no risk of fire, yet
19 state regulators never inspected the rail facility to
20 assess the fire risk, because it appears those charged
21 with ensuring public safety were caught up in a maze of
22 Catch 22 rules that work against timely assessment of
23 potential worker's safety and fire hazards.

24 Classic example of this entire situation. Then
25 I've got another thing to submit, it's from Rafael

1 Moure-Eraso, the Chair of the Chemical Safety Board.

2 "It's clear to me as Chairman of the Independent Federal
3 Agency charged with investigating industrial chemical
4 accidents that urgent steps are required to significantly
5 improve the safety of our nation's chemical industry, an
6 industry vital to our economy, yet potentially dangerous
7 to those who live near the thousands of facilities that
8 processor or store hazardous chemicals, and this one sits
9 in the port of L.A."

10 When we look at -- one more minute? Okay. When
11 we look at what you guys are doing up here, our experience
12 lies, for the most part, with the Port of L.A. We have
13 been beating our gums in front of them for years, and
14 their challenge or their direction comes from the mayor.
15 So in this case, we look at you, and we say, we look at
16 the staff report that gives you every out you would
17 possibly want. So where is the govern in charge of this?
18 Because here's a report issued by our Governor Brown in
19 his first term. Safety and liquefy petroleum storage with
20 low temperature of Petrolane, 1977. Governor Brown jumped
21 up when the L.A. times did a major exposé on the hazards
22 associated with this facility and said, I'm going to
23 demand an investigation and a report. Here it is. Okay.
24 1977.

25 It's been on the shelf gathering dust for 30

1 something years. The Coastal Commission is probably the
2 most forward in their assessment of this facility, and
3 some of the things that they say are that the safety --
4 the seismic safety design of the low temperature tank
5 should be reviewed in light of the recent studies
6 indicating potential activity of the Palos Verdes fault.

7 The security system needs to be updated. They
8 need a comprehensive review of permit approvals that would
9 apply to these facilities which handle hazardous
10 materials. It says that there could be widespread
11 fatalities, injuries and damages, and we believe the
12 public agency should prepare a risk analysis and a risk
13 management plan. None of this has ever been done.

14 No public agency had over all responsibility for
15 the project. The list goes on and on. They talk here
16 about insurance. It says that public liability insurance,
17 the City of Los Angeles and the facility operator must
18 operate within the existing legal framework for public
19 liability insurance, and a case of a high consequence LPG
20 accident, such a legal framework is unspecified.

21 When we found this, four years ago, we got our
22 hands on this document and thought the governor would want
23 to see this and would want to be involved.

24 I got it. I'm finishing. We went to Governor
25 Brown's office with this report, and what response did we

1 get? Michael Picker, his energy rep said, "The governor
2 knows about it. He doesn't want to be involved," and
3 that's it.

4 And the last thing, a newspaper article that
5 says "Rancho is fixed. Government is broken."

6 ACTING CHAIRPERSON GORDON: Adrian Martinez,
7 please. Earth Justice?

8 MR. MARTINEZ: Good afternoon. Thank you for
9 allowing me to speak today. My name is Adrian Martinez.
10 And I'm from Earth Justice, and I will just be very brief.
11 I want to really echo the concerns that have been raised
12 by various speakers today. I think it's really important
13 that the State Lands Commission remain vigilant and
14 involved in this issue. It's a big issue. You know,
15 statewide we're dealing with fossil fuel infrastructure
16 and its impacts. It's a serious risk for the community.
17 And as you can see by the significant number of community
18 members that traveled all the way from San Pedro to come
19 up and testify on this issue, is an important issue.

20 I appreciate your maintained involvement and
21 hope that the State Lands Commission will remain vigilant.
22 There's not only public health and safety, but also
23 important state resources at play. Thank you.

24 ACTING CHAIRPERSON GORDON: Any other speakers
25 on this subject? Let me start by saying I wish there was

1 more that we can do, but I recognize communities -- this
2 is completely -- the rail spur is the only piece of this
3 that the State Lands Commission has. Unfortunately, and I
4 know there is some disagreement in the community and among
5 them and Mr. Weiss and some of the attorneys have looked
6 at this, if we were to cancel, if this Commission were to
7 vote to cancel, to revoke the rail spur, it is the belief
8 our attorneys that the propane would still be moved based
9 on the Federal Common Carrier Law.

10 EXECUTIVE OFFICER LUCCHESI: If I could, the
11 State Lands commission does not have the leasing authority
12 over this railroad spur. So just technically speaking,
13 the most the Commission could do was write a letter
14 expressing its desire to the Port of Los Angeles as a
15 State Grantee that it revoke the permit.

16 The commission does not have approval authority
17 over that railroad spur.

18 ACTING CHAIRPERSON GORDON: Thank you. I do
19 understand the frustration from the community. You've
20 been to Federal EPA. You've been to the City of
21 Los Angeles. You've been to Los Angeles Fire Department,
22 and you've been to the Port, and no one seems to want to
23 take your concerns seriously. The most we can do, and
24 these are specific instructions I receive from my boss
25 this morning, what we'd like to do with the agreement of

1 two colleagues would be to have Ms. Lucchesi as the
2 executive director, continue putting pressure on the Port
3 to review their procedures, to negotiation with Rancho
4 based on the statements we received today from counsel
5 with regard to the parental agreement.

6 To see the extent to which they are willing to
7 give the community some assurance through insurance that
8 the parental company, Plains, is a good acting and is
9 acting in good faith and is good to their word. In
10 addition, the executive director should contact the city
11 and find out what's going on with both the mayor and the
12 fire department with regard to regular inspections of this
13 facility.

14 They are apparently in compliance with USEPA
15 regulations and whether those regulations, are adequate or
16 not, and regardless of how they may have come about in
17 Washington, we don't have any say over that. The company
18 is apparently in compliance and that's the most we can
19 demand of them legally. Whether they wish to go beyond
20 that and assure the community is up to the company.

21 But we're not going to drop this. Ms. Lucchesi
22 will continue, and the staff will continue to apply pressure,
23 to find -- at least get the answer to what the community
24 wants. I'm not confidence we're not going to be able to
25 satisfy what the community is asking for, but we will, to

1 the extent possible from the State Lands Commission at
2 least, continue to bring this issue before the Port and the
3 city and see what we can possibly get from them if we could
4 get some action from them that will at least make the
5 situation a little more clear.

6 ACTING COMMISSIONER ORTEGA: Mr. Chair, I
7 support getting the information and the clarification on
8 the insurance policy as discussed. Mr. Meier didn't have
9 a full understanding of what the representatives discussed
10 as being part of the policy. So I think getting
11 clarification on that through the staff is absolutely
12 appropriate. As to the issue of putting -- having staff
13 continue to put pressure, I only caution that pressure
14 required leverage, and I'm not really sure where we have
15 the leverage here, because we have already discussed, you
16 know, what the commission's authority and role is in this
17 particular difficult situation. So I only want to respect
18 that the staff can only do so much as far as pursuing and
19 getting additional information or seeking clarifications.

20 EXECUTIVE OFFICER LUCCHESI: Thank you for that.
21 I will say that we have had a productive working
22 relationship with the Port of Los Angeles, and we will
23 continue to work together with them to obtain the
24 requested information.

25 ACTING CHAIRPERSON GORDON: And with that I

1 think we are done with this item.

2 Ms. Lucchesi?

3 EXECUTIVE OFFICER LUCCHESI: Well, we do need a
4 motion and a second and a vote.

5 ACTING CHAIRPERSON GORDON: Okay. I will move
6 the motion will be that the executive director continue
7 to negotiation both with Plains and Plains/Rancho
8 and continue to dialogue with the Port and the City to
9 reach some clarity as to what are the safety procedures
10 and the insurance requirements that are available.

11 ACTING COMMISSIONER ORTEGA: I'll second that.

12 ACTING CHAIRPERSON GORDON: All those in favor?

13 (Ayes.)

14 Opposed? Okay. Thank you.

15 Next, Item No. 110. This is an informational
16 item on Low Energy Offshore Geophysical Permit Program.
17 Ms. DeLeon.

18 MS. DeLEON: I feel fresh. How about you guys?

19 Thank you, Chair. Thank you, Commissioners. My
20 name is Jennifer DeLeon. I'm with the Environmental
21 Planning and Management Division. And I am here
22 to give you an update report on the commission's Low
23 Energy Offshore Geophysical Permit program. And I promise
24 you there are some pretty pictures, pretty charts, and
25 some very quick presentation.

1 So super quick background chart. We have had a
2 geophysical history survey since 1941. Between 1984 and
3 2013, the commission relied on a mitigated negative
4 declaration for its administration of the program. In
5 2013 you approved -- you adopted a new negative mitigated
6 declaration and approve an updated program with the intent
7 that it would cover most, but not all survey activities.
8 Minor amendments were made in April of this year. So why
9 are we here?

10 Well, I'm here because you told me I should be.
11 As part of approving the program last year, you directed
12 staff to report back in 12 months of implementation of the
13 updated program. Specifically, we prepared a program
14 review report which was part of the task that went into
15 the updating of the program. That report included six
16 areas of program improvement for administration.

17 And so the one-year implementation report
18 contains several specific things, a summary of the survey
19 activities, updated status on the implementation of the
20 recommendations and the 2013 program review report, and
21 then a discussion of on going challenges and permittee
22 feedback. So, really quick summary; we have, up until
23 today, seven permittees as of today, Calendar Item 95, you
24 have approved our eight permittees. We also have one in
25 the pipeline that we are in discussion with over an

1 application. So over the past 12 months we have had six
2 survey conducted by three permittees. Five of the surveys
3 were pretty short, one of them were a little bit longer.

4 There was seven different types of equipment
5 used. And what these bar charts and the pie graph shows
6 is that while the activity was on the low end of our
7 document -- I'm sorry, our reference period, it is within
8 the range. I should note here also that half of the
9 surveys, that means three out of the six surveys either
10 used only passive equipment and in remotely operated
11 vehicles, magnetometers, or equipment that operated at
12 over 200 kilohertz frequency. That being the cutoff for
13 the hearing of marine mammals. So over 200 kilohertz is
14 outside the marine mammal's hearing range. There were
15 three that were within the marine mammal hearing range and
16 required to provide all of the environmental protection
17 measures for marine mammals. So that's the activity.

18 The second part is about the implementation of
19 the program review recommendations. So as I said, there
20 were six areas that one is notated in red on the slide are
21 indicating topics that were highlighted by the operators
22 when we conducted interviews this summer that they were --
23 these were the top items that were on going, challenges
24 for them to comply with the program.

25 So in terms of the recommendations that we have

1 implemented. I thought this slide really kinds of sums it
2 up the best. This is a snapshot of what our program web
3 page looks like. Most of the recommendations really had
4 to do with issues of transparency, data tracting, and
5 outreach. In that regard, we've accomplish a tremendous
6 amount. So on this page there is an easy link to the
7 application. There's a list of the permittees. There's a
8 link where you can look at maps, survey information,
9 upcoming surveys, past surveys. You can also sign up for
10 our mailing list, that was one of our main recommendations
11 in last year's program report was an easy way for people
12 to get notification of certain news.

13 The other thing that we've done that wasn't
14 specifically in the 2013 report but that seems to have
15 been really successful and we've gotten really positive
16 feedback, is that my staff has developed several guidance
17 documents that are really -- are more of, like, a layman's
18 explanation of, "Hey what do I do? How do I fill out this
19 notification form? What do you mean with the contingency
20 plan? What do you want us to put in it?"

21 So we've prepared these guidance documents that
22 give people like a step-by-step of how they can be
23 successful of submitting these forms. The other thing
24 that we've done is a lot of education and outreach. We've
25 sent a ton of letters. We've sent letters to surveyors

1 themselves and contractors who contract for these
2 services. We've also sent letters to all of our dredging
3 lease holders.

4 We've also done agency outreach, we've sent
5 letters to the Coastal Commission, Department of Fish and
6 Wildlife, and others to let them know that if they should
7 find themselves in a circumstance where they require or
8 conduct a survey, that she should please use a permitted
9 operator. Last thing we did is contact all of our seven
10 permittees, also two unpermitted companies and one
11 environmental and geo.

12 Back in April all of the seven permittees came
13 on board and supported the amendments. These amendments
14 had to do with certain narrow exceptions to the
15 notification process when the surveys had to do with
16 surveying for dredging verification. The other big issue
17 that came up, and this was the No. 1 issue of all of the
18 questions that we asked, was in the issue of enforcement,
19 the lack of enforcement and confusion about where the
20 program applies and where it doesn't apply were the
21 biggest issues of concern.

22 Also two permittees brought up the 21-day
23 notification requirement as being difficult to meet and
24 then a financial burden to comply with the program
25 requirements was listed by one permittee, and I believe

1 that permittee submitted a letter to you. But for the
2 rest of the six permittees, we specifically asked about the
3 expense or the burden to comply, and it was not listed as
4 a concern by the rest of the permittees.

5 So the status, I did say two more companies have
6 committed to apply but that's not correct because one
7 already did and got their permit today, and we are working
8 with another company. Our other way that we are looking
9 to be successful and getting more participation is that
10 over the next couple of years our dredging leases will
11 expire and people will look to renew them and that is one
12 way that we think we can get additional participation
13 by specifically requiring in those dredging leases that
14 those contractors use permitted operators only.

15 And then lastly, in terms of the enforcement, we
16 feel like we're making some progress. We have regulations
17 and draft. Those are important to us to kind of undertake
18 some experience first to guide our decisions on what we
19 needed to clarify and what was running smoothly. So we
20 expect to have those regulations out for our public review
21 under the Administrative Procedures Act in early 2015.

22 We'll also continue to monitor the state of the
23 science, any modifications to the program based on new
24 research we would want to look for ways to see incorporate
25 that. And then lastly, we're exploring the possibility of

1 legislation and what that might look like if we were to
2 decide or if you were to direct us to pursue an explicit
3 enforcement tool.

4 And this concludes my presentation blessedly
5 fast, I hope.

6 ACTING CHAIRPERSON GORDON: Thank you,
7 Ms. DeLeon, that was wonderful.

8 MS. DeLEON: I believe we have a couple of
9 speakers, and I know you get to call them up, but I have
10 to thank them from the bottom of my heart for, like,
11 staying here, and their comments are important, and I
12 appreciate their patience.

13 ACTING CHAIRPERSON GORDON: Ms. Ekstrom, please.

14 MS. EKSTROM: Hello, I'm Nicole Ekstrom. I am
15 with Ecosystems Management Associates, one of the now
16 eight permittees of the OGPP program. We're here just to
17 comment on some of the new amendments and updates that
18 have gone through the permit review process. We have to
19 say we are very happy with these amendments and updates.
20 We think this is moving in the right direction. Initially
21 upon seeing the new program prenotification procedure, it
22 was a little cumbersome. It was a little bit difficult to
23 get through. Now that we've gotten through it, we feel
24 pretty good about it. We have some good templates in
25 place. Jennifer and Kelly have been very great at always

1 answering our questions and getting back to us. So we
2 think this is a good direction. We hope that we will
3 continue to move in a direction of more efficiency as some
4 of these new notification proceeds can become timely on
5 staff resources. So we enjoy the reduction in marine
6 mammal observers and the reduction in safety zones of
7 200 kilohertz, that really helps with some of the cost
8 that we take on as a small business.

9 We have two suggestions, things that maybe you
10 could consider in the future. I did read that the
11 prenotification procedure might be reduced to 14 days, I
12 think that's great. But the main thing is that our survey
13 are very weather dependent, and it's very hard to predict
14 21 days in advance what the waves and winds will be. So
15 often what we're doing is we're renotifying, we're
16 renotifying, we're renotifying, and that takes time, that
17 takes money. We have to print paper out to send in
18 another letter to a dive shop. So if there's some way to
19 reduce and continue to reduce that prenotification time
20 frame in particular not to the Land Commission but in
21 particular to some of the other constituents on the
22 prenotification survey notification, dive shops, harbor
23 masters mainly. Local notice to mariners request days
24 notification. So maybe something like a 10-day, with
25 still the 21 day to the Land Commissioner would be a

1 great compromise. So we don't have to keep resending
2 letters. I was also looking at the list serve maybe
3 there's a way to include those constituents on the list so
4 that we could not have to keep resending letters to some
5 of these places. The letters also have to be certified
6 mail.

7 And I already talked to Jennifer about this a
8 little bit on clarification of the new verification of
9 equipment and sound output. I think there was some
10 confusion about we all thought we had to send our
11 equipment off to the manufactures. That's very difficult,
12 very timely. Many of these manufactures are overseas, and
13 these are huge pieces of equipments.

14 So we're excited to see what the new
15 recommendations are and what the guidance document states.
16 Hopefully, there will be a little clearer on how we verify
17 our sound output. That's not an easy thing to do. It's
18 not something that is easy to do even with the hydrophone.
19 So something of guidance of how we're suppose to actually,
20 beside getting good data, being a reputable company, how we
21 can determine and verify our sound output without having
22 to send our equipment to manufactures.

23 Once again, they've done a great job taking our
24 comments into consideration, and we thank them so much for
25 that, and I thank you guys once again for hearing us.

1 Thanks.

2 ACTING CHAIRPERSON GORDON: Stefanie Sekich,
3 please.

4 MS. SEKICH: Good afternoon, Commissioners. My
5 name is Stefanie Sekich. I am the California policy
6 manager for the headquarters of the Surfriders
7 Foundation. Surfriders has been giving comments letters
8 to this commission and your staff for several years for
9 the Offshore Geological Permit Program. I'm just going to
10 a OGPP to save everyone some time. We have be sent people
11 to testify on it, and our original forey into working on
12 OGPP was originally when we were looking at high energy
13 and low energy testing in San Louis Bay. And we primarily
14 did not because of the marine protected areas that are in
15 that area. We're gravely concerned about that. So then
16 lowland behold, we thought we would get out of that acoustic
17 are world, and we got dragged back in because a lot of our
18 constituents in the area were complaining about not having
19 proper notification for all these surveys.

20 So for the past two years we've worked with your
21 staff to get multiple comment letters. We're really
22 impressed with what's been done. But the website, as
23 Jennifer DeLeon just showed, it so much more substantial,
24 and it's easier to navigate. So we're happy.

25 ACTING CHAIRPERSON GORDON: You're done. You're

1 happy.

2 (Laughing.)

3 MS. SEKICH: So being the squeaky wheel, here I
4 go. Two very quick concerns. Actually it's not a
5 concern, it's mostly in agreeing with your staff. I think
6 that this commission should absolutely have some statutory
7 or regulatory legislation efforts in the future to have
8 more of a strong enforcement hand. I mean, if you have a
9 lot of these permittees that are out there and being
10 really not having an enforcement or, kind of, a tool with
11 penalties to them obviously that kind of gives us concerns
12 about impact to marine life. The notification we're going
13 to have to split hairs on this. We have a little bit of
14 concerns about the adaptation you took with the 17- or the
15 14-day period. You know, the biggest thing for us is
16 transparency. I mean, that is all of our constituents
17 were up in arms.

18 The average person doesn't understand the
19 differences between boats. All they know is they look up,
20 they see a boat. It materializes within 24 hours. They
21 don't understand and it could be a benign regular low
22 energy test for dredging, that's fine. It just really
23 behooves your staff to have to hurry and do that as well.
24 So I'm concern about the 24-hour one for just dredging.

25 And then more particularly we really ask you to

1 hold strong with the 21 pre-survey notification. Again,
2 primarily to assuage any concerns for transparency. This
3 is extremely important. There are several articles
4 written about how people felt that they are left in the
5 dark on that. And so we strongly suggest that do you
6 that, and finally, I am done after this. I agree that
7 there needs to be better mechanism for doing surveying
8 notifications and Mr. Fredder will work with any of these
9 permittees to help get out to, you know, dive shop, surf
10 shops, different clubs that are out there.

11 Both your staff and these permittees have made
12 great strides, but there's certainly room for improvement,
13 and thank you once again for your scrutinize with this
14 program. I think it's really imperative that you guys are
15 actually taking the time to actually do that, because I
16 think in the past it was a little bit of a ramshackle and
17 now it's actually in a very good policy guidance way that
18 is clear to the public. So we're just very pleased with
19 your scrutiny.

20 ACTING COMMISSIONER SCHMIDT: One quick
21 question, with regard to the 21-day and holding strong
22 there, is it how the information reaches your members
23 that's an issue? I mean, is there a way that we can
24 reduce the days and provide the information in a different
25 format that's easily accessible and available? Can it be

1 compromise that way or, I mean, are you just strong 21
2 days, that's what it needs to be because we need to
3 mobilize amongst each other?

4 MS. SEKICH: Well, I think that's a really great
5 question. I hope I can answer it. I think that really
6 again, it's allowing the public to feel that they are
7 being engaged. The majority of people aren't like us.
8 They don't sit around and read EIRs and understand these
9 technical information. So they always feel behind the
10 curve, and those are my constituents. Those are the
11 people who -- so if they had more time to read it, I would
12 probably have less calls. Just joking, but yes, I do
13 think the dissemination mechanism could be improved. The
14 e-mail list has been great. I think that's helpful. You
15 know what, some of these salty dogs who are ocean users,
16 they don't have e-mail. They don't really want to get on
17 website. They prefer to have an old school flier given to
18 them. We have to get creative with how we do it. But I
19 think, I mean, just by principal and the moral imperative
20 of Kants, I think it's important to have that 21-day
21 period. Again, it just give the public a feeling of they
22 are being engaged and have the power to actually read this
23 very complicated stuff and get some good insight into it.

24 Plus these surveys are planned so far in
25 advance, I have a hard time thinking, like, who is going

1 to wake up one morning and go, "Hey, let's do a survey."
2 Especially some of those low energy ones are really,
3 really complex. So it behooves them to almost take 21
4 days, I would think. But I hope that helped.

5 ACTING COMMISSIONER SCHMIDT: Yeah. And I look
6 forward to your support and help because I agree with
7 staff that we need to could come up with some ranks for
8 enforcement for industry sake and the environmental
9 community's sake, and I'm glad that both are willing to
10 work together to pass this.

11 ACTING CHAIRPERSON GORDON: I'd actually just
12 like to second what Mr. Schmidt just said, the only
13 complaints I have really heard on this are that for the
14 companies that are compliant, there's a cost. And they are
15 SCAF laws out there, and this is not any slight of State
16 Lands. I recognize that we don't have the staff to do
17 this. We need the staff. Previous point, I work for the
18 Pro Tem of the senate, and the regular complaint we got
19 was from honest business people who were looking to comply
20 with environmental laws that they were going to lose in
21 the market if we didn't get SCAF laws.

22 You're going to have the exactly opposite effect
23 you wanted because there's an additional cost to complying
24 with environmental programs and if those companies went
25 out of business all we were left with were the bad guys

1 and girls. So although I won't be here in January to vote
2 for the attempt at the legislator to get the regulatory
3 authority and the staff, I highly recommend do you that.
4 It's the last missing piece in making this program work
5 better, but congratulation to the staff. Ms. DeLeon and
6 your staff have done a fantastic job. I'm glad to hear
7 you guys are get along. Thanks.

8 No action needed to be taken. That was
9 informational. Is Penny Maus still here? Didn't think so
10 that was already taken care of.

11 All right. Last item is item number -- hang on
12 here. What item is it having to do with the CPI?

13 EXECUTIVE OFFICER LUCCHESI: Well, actually that
14 is in public comments.

15 ACTING CHAIRPERSON GORDON: That is in public
16 comments.

17 EXECUTIVE OFFICER LUCCHESI: Yes. But before we
18 have concluded our regularly agendas items. However, we
19 pulled from the consent calender Item 47.

20 ACTING CHAIRPERSON GORDON: Forty-seven, there
21 we go.

22 EXECUTIVE OFFICER LUCCHESI: Because there was a
23 person that wanted to comment on that and so.

24 ACTING CHAIRPERSON GORDON: Is the individual
25 still here wishing to comment on Item No. 47?

1 AUDIENCE MEMBER: Yes, I am.

2 ACTING CHAIRPERSON GORDON: Okay. Having
3 suffered through the entire day, you probably have the
4 right to testify.

5 Mr. Bugsch.

6 MR. BUGSCH: Yeah. I just want to give a short
7 presentation here on C47, and this is a general lease
8 dredging and other use to the Tahoe Keys property owners
9 association for maintenance dredging and placement of up
10 to 5600qb yards of suitable dredge material from the West
11 Channel entrance of Tahoe Keys to the Tahoe Keys Beach in
12 South Lake Tahoe. It's a three-year lease. The same
13 applicant, we issued a one-year least in the end of 2003
14 to dredge 3,000 cubic yards from the entrance. Over the
15 past decade there's been an accumulation of sediment, and
16 the applicant is approaching -- and this lease to dredge
17 up to 5600 cubic yards over a two to three years period to
18 maintain the navigable depth in the channel.

19 The dredged sandy material removed from the West
20 Channel and will be placed on the Tahoe Key's Beach east
21 of the West Channel entrance and spread out over an area
22 of .7 acres. Prior to placement on to the beach, all the
23 aquatic invasive species and other plant fragments will
24 be removed from the stuff and the beach that is being
25 placed on the public has access to. We recommend your

1 approval.

2 ACTING CHAIRPERSON GORDON: Okay. The gentlemen
3 who wish to speak on -- I don't know. I don't think I
4 have a card for you.

5 Can you identify yourself, sir.

6 MR. TOAZ: Yes. My name is Robert Toaz, I'm a
7 resident of Tahoe Keys, and I'm a project manager with
8 NASA's Jet Propulsion Laboratory. I'm here basically
9 acting on behalf of the sailboat owners in the Tahoe Keys.
10 So all during the summer of this 2014, we had been
11 notified several times by the association management that
12 the dredging was going to take place, and as you know in
13 Lake Tahoe, there are at least half a dozen agencies that
14 have to approve that, TRPA, Lahontan, State Lands
15 Commission, Army Corps of Engineers, et cetera. So us
16 sailers that were sailing in the summer thought this is
17 not going to be a problem. Everything is going to be
18 dredged. And most recently there was a specific statement
19 from the manager of the association saying that the day
20 after labor day we'll lay down nets to contain the
21 suspending sediment during the dredging. And he layed out
22 a plan for doing it, and we were all saying okay. Great.
23 Because usually things don't freeze until late
24 November, December. So the dredging never occurred. I
25 ran a ground several times trying to get out of the

1 channel. There are probably about 25 sailboat owners that
2 now have to incur about a \$2,000 cost to in winterize
3 their boats, put in de-icers, winterize the engine,
4 shrink-wrap the cockpit, and even with all that, there's
5 still a high risk of hull damage when the lake freezes.

6 Actually, the big lake never freezes but the
7 channels and the keys do. So again, being a manager over
8 at JPL, I have routine conversations with climate change
9 scientists, and unfortunately, with all the climate change
10 data available, there is still no healthy prognosis that
11 we're going to have a wet winter.

12 So I'm an engineer. I'm going to rely of the
13 laws of probability which say we're overdue for a wet
14 winter. But even if we had three years of a above average
15 Sierra snow pack, the lake level would probably still not
16 recover. If any of you that have traveled to Lake Tahoe
17 recently know how serious it is from July to 2011 to now,
18 the lake is over 5 feet lower. So you see it on the
19 beaches you see docks that are basically on land now
20 instead of water.

21 So I'm just here on behalf of the sailboat
22 owners, because I live in La Cañada that it was easy for
23 me to attend this meeting that, I just want to urge the
24 Commission to approve the dredging. Apparently a letter
25 of non-objection has already been written, but I just want

1 to be sure that we won't go into the 2015 boating season
2 locked in all year unable to enjoy the lake.

3 And again, there are at least 25 sailboat owners
4 and now even power boats with inboard engines are starting
5 to run aground. The channel entrance is probably less
6 than three feet deep. So as I said before dredging does
7 occur on a regular basis. I think what is dredged placing
8 it on the beach would actually be a good thing for the
9 beach. So it's just a matter of getting the lease
10 approved, the permit issued. Having the Army Corps of
11 Engineers do the same thing, and then hopefully, in March
12 of 2015, I'll be able to get my boat out on to the lake.

13 Again, I'm just here again on behalf of the
14 sailboat owners just urging you to do whatever it takes to
15 make this particular lease go through. Thank you.

16 ACTING CHAIRPERSON GORDON: Motion to pass Item
17 No. 47? Second? All right. All those in favor?

18 (Ayes.)

19 ACTING CHAIRPERSON GORDON: That motion is
20 adopted two to nothing.

21 That finishes the regular calendar. Ms.
22 Lucchesi, the next order of business, please?

23 EXECUTIVE OFFICER LUCCHESI: Public comment.

24 ACTING CHAIRPERSON GORDON: Public comment. Is
25 there anyone who wants to speak on public comment?

1 Mr. Evans.

2 MR. EVANS: Thank you. It has been a long day.
3 I'll try not to keep you here much longer. I want to
4 thank you first and foremost. Thank you, Commissioners,
5 Commissioner Gordon and Commissioner Ortega for hearing
6 our questions today to have the policy of the addition of
7 the cost of living index for the CPI removed from the leases
8 and an opportunity to have the voices heard from all the
9 stakeholders on this particular matter.

10 But before that, I want to thank everybody, your
11 staff, your management, Beverly Terry,, Ninette Lee, these
12 fine gentleman here, I would they are esteemed, and I mean
13 that. Everybody looks sometimes at a different way but
14 they are dog their job well for you and they are exemplary
15 in the way they handle issues with people?

16 ACTING CHAIRPERSON GORDON: You're talking about
17 our staff?

18 (laughing)

19 MR. EVANS: I am talking about your staff. I
20 know, but it's true, I mean Kim, everybody, they've been
21 great. But it is a serious matter that I'm here to
22 address. We've always been in good contact with
23 California State Lands, TLOA and other representatives,
24 homeowners associations, I'm here as vice president of
25 Vista homeowners association but as pier and boat owner.

1 And I want to thank, again, them are for helping
2 me with the lease. The Langstons they are 94 years old,
3 they didn't know what to do, and everything went smoothly,
4 and they were very, very fair and wonderful concessions
5 made for them. Carol and I wrote a letter to you all on
6 January 5 citing our concerns about the CPI. It's
7 something that most people don't even realize what it is.
8 When you say CPI, they go, "What's that?"

9 It's based upon all the consumer goods being put
10 together and put together for -- to measure what the cost
11 of living is basically. And it's used in commercial
12 leases. I use them on my own commercial property. And
13 you put them in to pass on the cost, the increase cost,
14 because they are based upon the CPI in most cases. The
15 increase cost is to cover your cost of ensuring and
16 maintaining, replacing, and paying the property taxes
17 which are increasing of course, regardless of the value of
18 the property. You pass that on to the tenant so that
19 you're covered for that. It's not any -- it's nothing to
20 do with protecting the value of the dollar as you receive
21 it, it doesn't, because there's no correlation between the
22 dollar that you're receiving and the value of the dollar,
23 you know, the value of our currency, that's based upon
24 debt, it's not based upon necessarily.

25 Real estate values go down, Eldorado County

1 reduced my taxes 33 percent on my home in Lake Tahoe
2 because they went down. Your lease provide the revenue to
3 you cannot go down. It can never go down. If the value
4 go down in real estate, it's assumed that it's always
5 going up. That's not true. The other thing is that we're
6 stuck. We're -- if you raise my rent, and as an office
7 building tenant, or as a boat owner or buoy owner, I'll go
8 find something else, I'll go somewhere else.

9 It's a way of life for us in Lake Tahoe. We
10 have put in our piers. We have put in our buoys. We pay
11 a CPI every year by paying the increase cost of
12 maintaining and insuring, and paying the property taxes on
13 our assets. I think it's wonderful that the state owns
14 the land that we put our piers and buoys on, but if we
15 didn't have our pier and buoys there, you'd have no
16 income.

17 So we're kind of in it together. It's a way of
18 life for us. But I think doctrine and fairness has got to
19 apply, and I think the CPI is just not a fair addition to
20 the leases. The additional thing is that we were paying
21 close attention. In February and March we thought the
22 issue of the total impact area, the redefinition of the
23 sovereign land to be from the low water mark out,
24 redefining the impact area was very important.

25 We had no idea that the CPI would be included

1 later, and we'd been given no notice whatsoever that it
2 would be included. It came up in the process of my
3 negotiating the lease for the elderly folk, and new news
4 to me, but there's been no notification or reaching out to
5 the stakeholders.

6 ACTING CHAIRPERSON GORDON: Mr. Evans, you're
7 over your time.

8 MR. EVANS: I'm terribly sorry.

9 ACTING CHAIRPERSON GORDON: You've flown down
10 here today and waiting through all of this.

11 MR. EVANS: I wanted to give my accolades to the
12 staff and management and to you all, and I'm sorry I'm so
13 wordy. The information, the case and point is for
14 example, they are saying that -- and there's information
15 to you and others that CPI give certainty to a lease so
16 you really know what's going to happen. I'd just like to
17 tell you that during the five years, 1977 and '81, no
18 reflection on Governor Brown. The CPI increased in those
19 five years 53.5 percent. It can happen. It will happen.

20 We're in an inflationary trend. It's scarier
21 than you know what. This is Ebola in the lease, because
22 most people don't know what it is, but this is how much it
23 could effect you. Our only recourse is basically -- it's
24 in the lease, you're going to charge me 53.5 percent
25 increase in my rent, and it compounds it's not like alone

1 where it is consistently 3 percent on the total, it is
2 approximate percent on top of 15 percent, on top of
3 10 percent and at some point, it becomes really invasive
4 and impossible for people and especially people like the
5 Langstons.

6 I'm able to incur some expense for a while. So
7 there is no certainty whatsoever. We also talked about
8 leases. We pay the rent, and we have the rent based on
9 the benchmark. It's a thousand percent more than we pay
10 in any year leading up to the new legislation allowing the
11 rentals. A thousand percent increase may not seem like a
12 lot, and the benchmark seems to be fair, but we also have
13 additional cost in that the lease requires us to insure
14 for anyone in the public and hold state harmless for
15 coming on my beach, going in, around, and over my pier.
16 That's a huge premium increase that nobody takes into
17 consideration, that's in addition to whatever we're doing.

18 So I would just respectfully request that the
19 Commission instructs staff to cease the policy including
20 annual CPI on the private pier that we lease. The recent
21 first leases with their CPI inclusion, which started in
22 August will not realize any increases until August 2015.
23 So they can be amended to resend the provision. And for
24 that I just -- at least let us have our voices heard and
25 have a panel of people on the lessees side get together

1 with staff and see if there's a not possibility for a
2 compromise.

3 ACTING CHAIRPERSON GORDON: Mr. Evans, I know
4 that this is going to be completely palliative for what
5 you're looking for, but remember, all three members of
6 commission are publicly elected officials. If the CPI
7 started moving 5, 10, 20 percent a year, there would be
8 lots of opportunity for this commission to suspend it. I
9 know that doesn't give certainty and there's politics
10 involved, but at least for my boss, I can't imagine if it
11 started jumping like that, that he'd be very comfort, and
12 I can't speak for my colleagues.

13 MR. EVANS: If you just take will percent a year
14 for five years that's 40 percent and at what point do you
15 take your time -- I think that if everybody had their
16 drudgers, you'd have a standardizer lease. Just a
17 standardize lease with it, a dollar number, and it's good
18 for five years or it's good for ten years. I know that
19 might upset some people that wish to see it, an increase
20 every year because they believe that your property value
21 is going up every year. The realty is our cost of
22 maintenance is going up. Your property is worth zero.
23 Please understand that it's valuable, it's wonderful. I'm
24 on the lake. I police the lake, but it's worth zero
25 without my assets on it because you get no rent.

1 So accept the fact that we're not part of the
2 problem, we're part of the solution and we ask for
3 fairness that's all and that you'd give us that
4 opportunity.

5 ACTING CHAIRPERSON GORDON: Thank you,
6 Mr. Evans.

7 MR. EVANS: Thank you so much.

8 ACTING CHAIRPERSON GORDON: Mr. Stephens.

9 MR. STEPHENS: Thank you to you all. I want to
10 share my story as a follow up to this. I serve as a board
11 member as well for the Meeks Bay Property Owners
12 Association. My name is Ron Stephens. I have a summer
13 home on the lake, and I married someone who is the
14 farmer's daughter who lived there years ago, and
15 interestingly, her double cousin is the people or are the
16 people that we just spoken of, the Langstons.

17 Okay. My wife's cousin, double cousins is the
18 Langstons, and as we consider what they have faced, one of
19 the goals that I've had for many years was to maintain and
20 preserve's my wife summer home where she grew up so that
21 we could enjoy the family legacy and pass it on to our
22 children and grandchildren. The Langstons, 94 years old,
23 just a few cabins above where we live.

24 They moved there in 1924. They are both retired
25 school teacher. He's a marine vet, and it's already so

1 difficult for them to even retain the property that they
2 have to lease it out during the summer. Their own
3 children are not able to stay in part of the cabin
4 already. And now with the imposition of the new fee, it
5 would be even more difficult on them, and as my wife and I
6 look to our future and see where it's headed, I'll be 68
7 years old next week.

8 We planned our lives so that we can live in our
9 Lake Tahoe cabin until, you know, we pass it on to the
10 next generation. But it's incredibly difficult for what I
11 would call "common California citizen" to be able to do
12 this. We have not the nuevo rich. If you want to get on
13 the lake now you need a boat load of money.

14 I began in the bean yards picking beans at two
15 and a half cents a pound, bagging groceries, doing all
16 kinds to scut work. I spent 40 years or so in the field of
17 education, also in the military being drafted. It was not
18 an easy path to get where we are now, but we simply want
19 to retain this, and frankly with the CPI changes that are
20 being proposed, it gives us an credible amount of concern
21 about where we go. The other thing that I would also
22 offer is this: As we look at our own pier, I have the
23 original letters back in 1953. The pier cost a whopping
24 total of \$1485, and as I look at what the anticipated fees
25 will be on that when ours comes up for renewal it will

1 probably be one to, one and a half times that amount.

2 And I just ask the commission and the staff to
3 use a level of compassion, a level of care, and a level of
4 reason as these things are taking place, because we would
5 like to be able to enjoy the property without having to
6 sell it, or not have its beneficial use. Thank you.

7 ACTING CHAIRPERSON GORDON: Thank you, sir.

8 ACTING COMMISSIONER SCHMIDT: Real quick. Do we
9 have a built-in floor ceiling on this?

10 EXECUTIVE OFFICER LUCCHESI: No.

11 ACTING COMMISSIONER SCHMIDT: Why?

12 EXECUTIVE OFFICER LUCCHESI: That's not
13 something that we considered when originally putting this
14 in. I can address that in a little bit, if I may just,
15 kind of take some steps back, to put some context around
16 why staff began to include this in our recommendations for
17 our recreational pier leases. So first, we heard from a
18 lot of our lessees on both -- through our regulations
19 process and also individually in negotiating individual
20 leases throughout the state, not just in Lake Tahoe. As
21 you recall we issue these times of leases in the delta, in
22 the Bay Area and down in Southern California, and a common
23 theme with regards to our rent review at five years,
24 typically these leases are for ten years with a rent
25 review process at year five. And a common theme that we

1 heard was that there wasn't certainty about what that rent
2 review would end up being at the year five.

3 There wasn't a certainty about what that cost
4 for rent would equalize after we conducted our rent
5 review. So hearing that and also coupled with the 2011
6 bureau state audits report which recommended that we
7 include CPI adjustments in our leases in both in addition
8 to a rent review and also in place of a rent review, we
9 thought that the CPI adjustment would be a way to both
10 protect the value of the State's property and the value of
11 the rent through the ten year period, as well as provide
12 certainty to our lessees for them to gauge, you know, how
13 that rent would be adjusted each year.

14 You can easily track the CPI for the last five
15 years. It stayed pretty steady at about 1.9. We believe
16 that there is a much more transparency using the CPI
17 adjustment as a oppose to a rent review process based on
18 an update of our benchmarks for that ten year period. We
19 also believe that there is a tremendous amount of
20 efficiency gains from using a CPI adjustment. We weren't
21 able to broadly use the CPI adjustment prior to
22 implementing our new lease database, because we'd have to
23 calculate those CPI adjustments manually.

24 With our new lease database, we can now automate
25 that which is a huge -- which provides a lot of efficiency

1 from a staff resources perspective. So, for example, a
2 routine rent review at year five, typically cost us \$525
3 of staff time to process. That's not actually passed on
4 to the lessees. That's something that we eat as a
5 commission through our budget.

6 And with the recent passage of SB152 we are
7 going to see about 1200 previously rent free leases become
8 rent producing leases, and so we believe that with the
9 savings of staff time in these rent reviews, we could
10 annually save about \$200,000 in staff cost associated with
11 our rent reviews.

12 And again, we believe that this approach is
13 really fundamentally fair. Our lessees contract the CPI
14 process, it's transparent, and it really maintains the
15 value of the commission's rent over the ten-year period.
16 Finally, I just want to mention one other issue is that it
17 was mentioned by the two speakers, the rent that is
18 actually generated from these leases does not come to the
19 commission, it does not go to the general fund. The
20 rent -- the revenue derived from these leases at Lake
21 Tahoe specifically, actually go back to the lake. They go
22 to the Lake Tahoe Tahoe Conservancy for their use in
23 maintaining, and protecting the lake.

24 ACTING CHAIRPERSON GORDON: Thank you.

25 Ms. Sekich, you wish to speak about Martin's

1 Beach? Why?

2 MS. SEKICH: I know, right. I swear, I'll be
3 quick. My parents also lecture me I talk too fast just to
4 kind of give you an update on where we have on this lovely
5 issue. It's been extremely cumbersome for our
6 organization for the past six to eight years. I just want
7 to give you a quick historical snapshot of what we're
8 talking about. This area is in San Mateo. Historically
9 that area of Martin's Beach has been used for over a
10 hundred years.

11 The previous owners, "facilitated" being the
12 operative word, public access to the beach again for over
13 a hundred years. Mr. Khosla purchased the land in to
14 2008. He kept the gate open for a little bit. Kind of
15 decrease all of the activities that was going on there,
16 and then all of a sudden, out of nowhere, decided to shut
17 the gate and close the door.

18 Our chapter wrote a very cordial nice letter
19 saying, "Mr. Khosla, can we sit down and talk to you?"
20 His attorney wrote back and said, "No, please respect our
21 privacy. See you in court." The second letter came from
22 us very cordial. We submitted it to Ms. Lucchesi in the
23 past to show our demonstration of trying to negotiate with
24 him and again, "See you in court."

25 We actually had an open letter through our

1 members, through statewide that over 2,000 people have
2 sent him a letter saying, "We just want to sit down." And
3 I'm sorry I'm belaboring this, we have been written up in
4 the New York Times, the Wall Street Journal, the UK
5 Guardian by Mr. Khosla quoting that we will not sit down
6 and speak to him.

7 ACTING CHAIRPERSON GORDON: You don't really
8 look like Karl Marx, but that seems to be the reference.

9 MS. SEKICH: So I would just like to be
10 explicitly clear that we have bent over backward to talk
11 to Mr. Khosla, and he has mischaracterized us in the
12 media. So I just kind of want to make sure that that's
13 clear. And then as two lawsuits that are happening one is
14 from the Friends of Martin's Beach underneath the
15 California State Constitution, we all have an inalienable
16 right to access and recreate in waters.

17 Unfortunately, the judge ruled in Khosla's favor
18 by using a very antiquated Guadalupe Mexican Land Grant.
19 Now, I'm not going to bore anyone here, because it's
20 obviously late, but I tell you when a piece of legislation
21 was traveling through all these committees in Sacramento
22 there was so many senators and assembly members that
23 scoffed at the fact that they used this Guadalupe Land
24 Grant to rule in his favor. We appealed -- our Friends of
25 Martin Beach appealed it, and we have a strong hope that

1 that will come to a better conclusion.

2 Second, we filed a lawsuit and again we probably
3 know all of this because it's just for us to get on the
4 record. Because eventually you'll kind of have to help us
5 get to our second request here. We won our lawsuit last
6 week. It says that any type you put up a gate and it
7 changes the intensity of use, you are required to get a
8 coastal development permit by the Coastal Commission.
9 They ruled in our favor, that's going to happen.

10 I bring up the lawsuits quickly, because when
11 the time is right, we would hope that there could be an
12 amicus brief written by your staff and/or you. Either to
13 both lawsuits and then as we go first Senate Bill 968
14 which was just passed, I mean, this is the whole meat of
15 it, and I'm unfortunately out of time, but Ms. Lucchesi
16 has bent over backward to try to help facilitate even
17 before the legislation was passed. And so we're very
18 excited to sit down with your staff. The one suggestion I
19 would have for Jennifer, and we can speak later, is we
20 would suggest maybe some type of community workshop in
21 San Mateo. We would help facilitate that as well, just
22 because I think a lot of people want to make sure this is
23 open and transparent -- that is another Marxist word I keep
24 using, but so we can help facilitate that, but I think
25 that's the greater thing to go forward is this legislation

1 is now on the books and really that's our little tidbit.

2 And if you watch Steven Colbert that was a great
3 episode called Solitocity, and it just brings a little
4 levity to the situation, so. Thank you for your time.

5 ACTING CHAIRPERSON GORDON: Thank you, Ms.
6 Sekich.

7 ACTING COMMISSIONER SCHMIDT: Just on that I
8 want to point out that Jennifer Lucchesi worked
9 tirelessly for weeks on this issue, and actually got more
10 phone calls at 11:00 p.m. from my boss than I was
11 receiving. So thank you for becoming personal staff of
12 the Lt. Governor and thank you for all the work, and I
13 know we'll get this done one way or the other.

14 ACTING CHAIRPERSON GORDON: And know we have
15 three people that would like to speak about Broad Beach
16 now. Come forward, please.

17 How about Neal Gauger, please.

18 I would like you to know before you come up,
19 this item will be scheduled for hearing either in November
20 or December so you'll have ample opportunity at that time
21 to engage the commission on the many issues involving
22 Broad beach.

23 MR. LEVINSON: Thank you very much. Let me
24 introduce myself. First of all thank you very much,
25 Commissioners and Staffers for allowing us to speak to you

1 today. My name is Mark Levinson. I'm a partner with the
2 Law Firm of Fox Rothschild, and my colleague is Neal
3 Gauger, and he's going to tell you a little bit about the
4 details that we feel, and we hope that you consider when
5 you are considering the terms of the lease with the Broad
6 Beach Geologic Hazard Abatement District.

7 ACTING CHAIRPERSON GORDON: Do you have a client
8 in this issue?

9 MR. LEVINSON: Yes, and our client is Mark
10 Magidson, who is a property owner at 30822 Broad Beach
11 Road. And with that, I'm going to turn over the more
12 detail discussion to my colleague, Neal.

13 MR. GAUGER: Thank you, Mark.

14 So as you know this will be up in the hearing,
15 but we wanted to provide some context for when that
16 happens. Our client has also sent some communication to
17 Ken Foster and some other individuals, with the associate
18 we wanted to reinforce those. The GHAD, of course, is a
19 government entity being it a geological hazard abatement
20 district, and the status of course brings obligations to
21 the citizen within the district. However, to date BBGHAD
22 has really conducted itself as much more as the homeowners
23 association of which many of its members once were a part.
24 So Mr. Magidson's house is located in a gap in the rip
25 rap rock revetment that's located on Broad beach. And

1 despite's GHAD's presentation to the SLC, as witnessed to
2 the SLC's report, the revetment is not the 4100-foot
3 structure that was promised. Rather, as you can see,
4 there are large gaps including a very large gap in front
5 of our client's property?

6 ACTING CHAIRPERSON GORDON: Where are you --

7 MR. GAUGER: So I can basically show you, you
8 can see where the white sandbags are in the top picture.

9 ACTING CHAIRPERSON GORDON: Uh-huh.

10 MR. GAUGER: That's one corner. And you can
11 sort of see on the left-hand side on the front there's
12 sandbag there. That is the border. And so you can see
13 from the to angle there's a very tall, I would say about
14 15-foot to 20-foot high rock revetment, and it is
15 exceptionally long and there is no revetment protection in
16 front of our client's property.

17 Despite his explicit request to pay for and
18 install that revetment. The GHAD has refused to complete
19 the revetment despite the obligation of the public
20 resources Code, California Case Law, Proposition 218, and
21 its own plan of control which grants it the right to
22 approve any construction and which ties the responsibility
23 to The GHAD to mandate that the project improvements have
24 been complete and had that all permit requirements has
25 been satisfied.

1 So completion of the revetment is further
2 mandated by the emergency permit from the SLC and from the
3 CCC that The GHAD is currently operating under. So you can
4 see the clients -- my client's property is exposed to the
5 ocean on a daily basis. This is actually as you can see a
6 very nice day in Malibu. The water is rushing up and on
7 to the property and encroaching on to the land causing
8 erosion, water damage, vegetation loss, and threats to the
9 property septic system which is now starting to become
10 exposed, and if breeched, would result in effluent and
11 other toxic materials all over Broad Beach.

12 So the water is also pooled behind the chopped
13 ends of the revetment and you can see in the lower picture
14 down there that behind the sandbag there's a bit of a
15 divot. That divot is about, I would say five feet deep
16 and deepening. So there's not only damage occurring to
17 our client's property, but also to individuals who have
18 revetment protection, creating legal exposure for, in our
19 eyes, the GHAD, and we're concerned about against
20 ourselves on those basis. So the structures built defies
21 the GHAD's obligation, as well as any considerations of
22 practicality. My client has faithfully paid all
23 assessments. He has offered to pay the full cost of
24 completion to finish the revetment. He is quite laterally
25 asking to give the GHAD money for the project.

1 In response, the GHAD has issued a letter
2 stating in quote, that the Magidson Trust must, quote,
3 obtain the necessary permits to fill in the gap on its own
4 and at its own expense.

5 In fact they've explicitly informed our client
6 that it will not authorize the completion as part of its
7 current permit before the SLC unless the Magidson Trust
8 pays substantial financial penalty, including permitting
9 cost, emergency permitting cost, which my client has
10 already paid for through the payment of the assessments,
11 which he once again he has never missed.

12 So if my client were made to pursue a separate
13 permit, he would encounter a multi-year process of
14 commission approval, including compliance with CEQA.
15 Conversely, GHAD modifies their application, and we've
16 had discussions directly with the CCC, which has informed
17 us that the BBGHAD can do somebody as simply as sending a
18 one-page letter saying you have this schematics for 76
19 other houses that has this rock wall. Take the same
20 schematic and build a rock wall in front of our property.
21 And that would be enough. There will be no delays, we'll
22 be able to use their CEQA exemption. And the BBGHAD has
23 refused to perform even that simple act. And so finally,
24 I see I'm running out of time, beyond the irrefutable
25 obligations of GHAD to complete, the practical and

1 tangible absurdity cries out for sensible relief from this
2 commission.

3 At this point they are proposing the
4 installation of a small sand dune, which there have been
5 small sand dunes in the past that washed into the ocean.
6 They will wash away again. And my client would have to
7 install that sand dune, go through a multi-year process of
8 getting petition approval, building a rock revetment,
9 dragging away the sand, putting part of that sand back on
10 the rock revetment, and then hauling away the rest of the
11 sand to who knows where, and of course, this will all
12 require heavy equipment on the beach which is
13 another risk for the environment. It will
14 require the GHAD approval and cooperation, which of
15 course, to this date, they have not been willing to
16 provide or share with them. So the GHAD has put our client
17 into a box of their own creation, and frankly, we've
18 advocated as hard as we can for quite sometime now, and we
19 need the weight of the SLC. We need the weight of the CCC
20 to get results here.

21 So the damage by the beach, as you can see, is
22 frankly pretty horrible and getting worst. We're asking
23 you to protect us today from the government organization,
24 the GHAD, that is charged with protecting us. So on
25 behalf of my client, I ask that the commission mandate the

1 immediate completion of the rock revetment wall at the
2 Magidson property, as a non-negotiable condition for
3 approval of the SLC land lease, and I ask that you
4 consider that today in your closed-session meeting
5 discussion and negotiations of terms and price for the
6 land lease.

7 ACTING CHAIRPERSON GORDON: Thank you.

8 MR. GAUGER: Thank you.

9 ACTING CHAIRPERSON GORDON: Ms. Nancy Hastings.

10 MS. HASTINGS: I have a PowerPoint, and it's
11 going to be super fast. Thank you. My name is Nancy
12 Hastings. I'm a Southern California regional manager with
13 Surfrider Foundation, and I'm here to do a quick
14 three-minute, about 50-year tour of Broad Beach
15 restoration project before the lease application heard by
16 the commission. Here's Broad beach sometime after 1944
17 just north of Trancas and PCH. Notice the wide sandy
18 dunes that are now gone.

19 The name Broad Beach imply that the beach was
20 always broad, but the Coastal Commission office in Ventura
21 has records that show a much thinner profile of
22 Broad beach in the 1870s. The wide sandy beach in the
23 1970s through '80s was the maximum width of the last 130
24 years. The shoreline of Broad beach was considerable more
25 landward in the mid-late 1800s than, the 2009 location.

1 Quick graff that shows the biggest amount of
2 sand accretion happened approximately between 1946 and 1974
3 and steady beach loss from the '74 to 2000, yet the width
4 of the beach in 2000 was the same as 1940. Here's Lechuza
5 Point at its widest, and then 32 years later Lechuza Point
6 was completely eroded away. From 2000 to present its a
7 bit of a puzzle. The loss of beach continued but without
8 much correlation with storms or sea level change.

9 We learned in 2005 that the homeowners were
10 seasonally and illegally bulldozing the entire stretch of
11 the beach to create winter berms that they had level again
12 in the spring. We held a nice protest and submitted
13 comment letters and the Coastal Commission ordered the
14 bulldozing to stop. As the erosion continued, homeowner
15 began constructing temporary seawalls and in some cases
16 these were without permits. They hired different
17 contractors to make these walls. It was a pretty ugly
18 patch work of mylar, hamp, chain links, and plastic bags.

19 Fast forward to 2010, huge winter storm surges,
20 kings tides, El Nino year, accelerated erosion, especially
21 off the western end, resulting in the permitting of the
22 emergency rock revetment, which you guys know all about.
23 So it's 48100 feet long, about eight feet deep. I think
24 it is a ten to 20, my understanding it's about four feet
25 under four to six feet above. Then real quick, so here's

1 that was then, this is now. And then a current angle of
2 May of this year. On high tide the winds break rock
3 revetment. There is no sand to walk on. And important to
4 note in certain areas the revetment was placed directly on
5 public lands.

6 Last one, so in closing, we've spent ten years
7 working to improve beach access and advocate for proper
8 coastal management. We'll continue to work with the
9 commissions and other agencies to ensure public access and
10 identify critical coastal planning measures. When this
11 commission hears the lease application we strongly urge
12 you to analyze how this lease will impact public trust
13 lands and let's strike the right balance.

14 ACTING CHAIRPERSON GORDON: Thank you very much.

15 That concludes the open meeting, I believe,
16 unless there is anybody else in the public that wishes to
17 speak. We'll now adjourn into close section. Will the
18 public please clear the room.

19 (Off the record.)

20 (back on the record.)

21 ACTING CHAIRPERSON GORDON: Unless anyone in the
22 public has any -- how about Ms. Lucchesi has to report
23 what happened in close section.

24 EXECUTIVE OFFICER LUCCHESI: Yes, I just want to
25 quickly report that the commission has authorized staff and

1 the attorney general's office to file an amicus brief in the
2 court of appeal in the Friends of Martin's Beach case.

3 ACTING CHAIRPERSON GORDON: That will conclude
4 the session of the State Lands Commission. We're done.

5

6 (Whereupon the proceedings were concluded
7 at 5:08 p.m.)

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, TAMOI N. TOMLINSON, a Certified Shorthand Reporter, licensed by the State of California, being empowered to administer oaths and affirmations pursuant to Section 2093(b) of the Code of Civil Procedure, do hereby certify:

That the individuals named in the foregoing proceedings were present at the time and place specified;

That the said proceeding were taken before me in shorthand writing, and was thereafter transcribed, under my direction, by computer-assisted transcription;

That the foregoing transcript constitutes a full, true, and correct record of the proceedings which then and there took place;

That I am a disinterested person to the said action;

IN WITNESS WHEREOF, I have hereunto subscribed my signature on the 8th day of December, 2014.

Tamoi Tomlinson

TAMOI TOMLINSON, CSR No. 13864